

A C T S

*Francis L. Lee*

P A S S E D A T

GENERAL ASSEMBLY

O F T H E

COMMONWEALTH

O F

*1878*  
VIRGINIA,

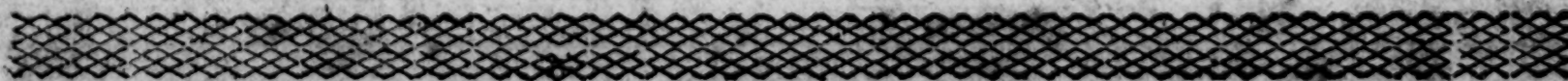
*General Assembly*

BEGUN AND HELD AT THE  
PUBLIC BUILDINGS, IN THE CITY OF RICHMOND,

ON MONDAY, THE TWENTIETH OF OCTOBER,

IN THE YEAR OF OUR LORD,

ONE THOUSAND SEVEN HUNDRED AND EIGHTY-EIGHT



R I C H M O N D:

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A C T S

P A S S E D A T A

# General Assembly,

O F T H E

## COMMONWEALTH OF VIRGINIA.

C H A P. I.

*An ACT for the appointment of ELECTORS to choose a PRESIDENT pursuant to the Constitution of Government for the United States.*

[Passed the 17th of NOVEMBER, 1788.]

SECTION I. **W**HEREAS the United States in Congress assembled, did, on the thirteenth day of September, in the year of our Lord, one thousand seven hundred and eighty-eight, resolve that the first Wednesday in January next be the day for appointing Electors in the several states, which before the said day shall have ratified the New Constitution of Government for the United States; that the first Wednesday in February next be the day for the Electors to assemble in their respective states, and vote for a President; and that the first Wednesday in March next be the time, and the present seat of Congress, the place for commencing proceedings under the said Constitution: *BE it therefore enacted by the General Assembly,* That for the purpose of choosing twelve Electors on behalf of this state, to vote for a President in conformity to the Constitution of Government for the United States, the several counties in this Commonwealth shall be allotted into twelve districts, in manner following, to wit: The Counties of Amelia, Powhatan, Chesterfield, Cumberland, Brunswick, Greenville, Lunenburg, and Mecklenburg, shall compose one district: The Counties of Henrico, Goochland, Louisa, Charles City, James City, and New-Kent, shall compose another district: The Counties of Botetourt, Washington, Montgomery, Greenbrier, Augusta, Rockingham, Rockbridge, Russell, Shenandoah, Pendleton, and the district of Kentucky, shall compose another district: The Counties of King & Queen, King William, Essex, Caroline, and Hanover, shall compose another district: The Counties of Prince William, Fairfax, Loudoun, and Fauquier, shall compose another district: The Counties of Westmoreland, King George, Stafford, Lancaster, Richmond, and Northumberland, shall compose another district: The Counties of Hampshire, Frederick, Berkeley, Monongalia, Ohio, Hardy, Harrison, and Randolph, shall compose another district: The Counties of Norfolk, Nansemond, Accomack, Northampton, and Princess-Anne, shall compose another district: The Counties of Sussex, Isle of Wight, Surry, Prince George, Dinwiddie, and Southampton, shall compose another district: The Counties of Campbell, Pittsylvania, Charlotte, Halifax, Prince Edward, Bedford, Franklin, and Henry, shall compose another district: The Counties of Albemarle, Amherst, Fluvannah, Spotsylvania, Orange, Culpeper, and Buckingham, shall compose another district: And the Counties of York, Gloucester, Elizabeth City, Warwick, and Middlesex, shall compose another district:

SECT. II. **T**HAT the persons qualified by law to vote for members to the General Assembly, in each county composing a district, shall assemble at their respective courthouses on the first Wednesday in January next, and then and there vote for some discreet and proper person, being a freeholder, and *bona fide* resident in such district for twelve months, as an elector for such district, to vote for a President of the United States, in conformity to the said Constitution.

SECT. III. **T**HE High-Sheriff of each county, or in case of his sickness or inability to attend, one of the deputy sheriffs, being first duly sworn by a magistrate of the county to act impartially, and a certificate of the taking such oath under the hand of the magistrate delivered to him, shall conduct the said election, at which no determination shall be had by view, but each person qualified to vote, shall fairly and publicly poll, and the name of the voter shall be duly entered under the name of the person voted for in proper poll-books to be provided by the sheriff; for which purpose the said sheriff shall appoint so many writers as he shall think fit, who shall respectively take an oath, to be administered by him, or make solemn affirmation, that they will take the poll faithfully and impartially. He shall deliver a poll book to each writer, who shall enter in distinct columns, under the name of the person voted for, the name of each voter, voting for such person. Like proclamation and proceeding shall be had for continuing and closing the poll in each county of a district as is prescribed by law, in the election of members to the General Assembly and proclamation shall also be made at the court house door of the person having the greatest number of votes on the poll at the closing thereof.

SECT. IV. **E**ACH voter shall be entitled to the same privilege from arrests, and be subject to the like penalty and forfeiture for failing to attend and vote at such election, as prescribed by law in the election of members to the General Assembly, such failure to attend to be discovered and proceeded on in like manner and under the same penalties as is by law prescribed against such failures in the election of members to the General Assembly. Immediately after each election in a county, the clerks of the polls having first signed the same, and made oath to the truth thereof.



thereof (a certificate of which oath under the hand of a magistrate of the county shall be subjoined to each poll) shall deliver the same to the sheriff who conducted the election, and such sheriff, together with the respective sheriffs who conducted the poll of the several counties in the district, except in case of the disability or sickness of such sheriff, then any other sheriff of the county in which such sickness or disability may happen, shall within seven days assemble at the courthouse of the county first named in such district, and then and there compare the polls respectively taken at the election in their several counties, and having ascertained by faithful addition and comparison of the numbers on the respective polls, the person having the greatest number of votes upon the whole, giving their own votes in any case of the two foremost on such poll having an equal number of votes, shall proceed to certify such elections under their hands and seals in manner and form following, to wit.

"*WE, A. B. sheriff of \_\_\_\_\_ County (or deputy sheriff as the case may be,) C. D. sheriff of \_\_\_\_\_ County, (and so on reciting the name of the sheriff, and whether principal or deputy of each county in the district) composing one entire district entitled by law to appoint an elector to vote for a President of the United States, do hereby certify and make known, that at an election held on \_\_\_\_\_ at the court-house of our respective counties pursuant to law, the voters qualified to vote for an elector to choose a President of the United States, caused to be chosen one person, to wit: G. H. to represent the said district as an elector to vote for a President of the United States. Given under our hands and seals, this \_\_\_\_\_ day of \_\_\_\_\_, one thousand seven hundred and eighty \_\_\_\_\_.*"

Two fair duplicates of such certificate and return shall be made by the said sheriffs under their hands and seals, in the manner before recited, one of which shall be delivered to the person elected to represent the district, and the other shall be transmitted to the Governor and Council within twelve days, under the penalty of one hundred pounds, upon each sheriff holding such election, in case of failure herein, to be recovered by motion in any court of record, by the Solicitor General, to the use of the Commonwealth. And the Governor and Council shall thereupon advertise, in the public gazette, the names of the persons so elected, who shall assemble in the City of Richmond on the first Wednesday in February next, and proceed pursuant to the resolution of the Federal Convention, of the seventeenth of September, in the year of our Lord, one thousand seven hundred and eighty seven, and the provisions, in the Constitution of Government for the United States, to vote for a President.

SECT. V. EACH elector chosen pursuant to this act, and failing to attend and vote for a President at the time and place herein directed, and moreover to send and certify the same in manner directed by the Constitution of Government, shall, except in cases of sickness or any other unavoidable accidents, forfeit and pay two hundred pounds, to be recovered by the Solicitor General, to the use of the Commonwealth, by action of debt, bill, plaint or information, in any court of record.

SECT. VI. THE said sheriffs shall under the penalty of fifty pounds, to be recovered on motion by the Solicitor General, to the use of the Commonwealth, in manner aforesaid, deliver to the clerks of their respective counties, within ten days after making their returns as aforesaid, the original poll books, to be by such clerk entered of record, under the like penalty for failure as for failing to record the poll books taken at the election of members to the General Assembly, and recoverable in like manner.

SECT. VII. ANY sheriff or deputy sheriff refusing to take the poll, when he shall be required by a candidate or person qualified to vote for persons to the General Assembly, or taking it in other manner than is herein before prescribed, or making or signing a false certificate or return of election, as herein before directed, or making any erasure or alteration in the poll books, or refusing to suffer any candidate or person qualified to vote, at his own expence to take a copy of the poll books, shall forfeit and pay one hundred pounds, which penalties may be recovered with costs in action of debt, by any person who will sue for the same; one half to his own use, and the other half to the use of the Commonwealth.

SECT. VIII. ANY candidate or other person in his behalf who shall directly or indirectly give or agree to give any voter or pretended voter, money, meat, drink, or other reward, in order to be elected or for having been elected, shall forfeit and pay five hundred pounds for each offence, to be recovered with costs by action of debt, to the use of any person who will prosecute for the same.

SECT. IX. AND be it further enacted, That the electors, so appointed to choose a President, shall be allowed for their travelling expences, five pence per mile, and ferriages, and for their daily attendance ten shillings, and be entitled to the same privileges from arrests as members to the General Assembly.

SECT. X. PROVIDED always, and be it further enacted, That the fines and penalties hereby imposed upon sheriffs failing to perform any of the duties prescribed by this act, are declared not to extend to the sheriffs within the district of Kentucky; but such sheriffs shall proceed to execute the same under the best circumstances which the promulgation of this act, will admit of.

## C H A P. II.

### *An ACT for the Election of REPRESENTATIVES pursuant to the Constitution, of Government of the United States.*

[Passed the 20th of NOVEMBER, 1788.]

SECTION I. **W**HEREAS the United States in Congress assembled, did, on the thirteenth day of September, one thousand seven hundred and eighty-eight, resolve, that the first Wednesday in January next, be the day for appointing Electors in the several States, which before the said day shall have ratified the new Constitution of Government for the United States; that the first Wednesday in February next be the day for the Electors to assemble in their respective states, and vote for a President; and that the first Wednesday in March next be the time, and the present seat of Congress the place, for commencing proceedings under the said Constitution. AND WHEREAS, it is provided by the said Constitution, that until the enumeration therein directed shall be taken, Virginia shall be entitled to ten Members in the House of Representatives, and that the times, places, and manner of holding elections for the same, shall be prescribed by the Legislature: BE it therefore enacted by the General Assembly, That the counties within this Commonwealth, shall be divided into ten districts, in manner following, to wit: The Counties of Hampshire, Berkeley, Shenandoah, Hardy, Monongalia, Ohio, Randolph, Harrison and Frederick, shall compose one district: The Counties of Mercer, Jefferson, Fayette, Bourbon, Lincoln, Nelson, and Madison, shall compose another district: The Counties of Botetourt, Rockbridge, Montgomery, Greenbrier, Washington, Augusta, Russell, Rockingham, and Pendleton, shall compose another district: The Counties of Prince-William, Stafford, Loudoun, Fairfax, King-George, and Fauquier, shall compose another district.



District: The Counties of *Albemarle, Amherst, Fluvanna, Goochland, Louisa, Spotsylvania, Orange, and Culpeper* shall compose another district: The Counties of *Campbell, Charlotte, Buckingham, Bedford, Prince-Edward, Franklin, Henry, Pittsylvania, and Halifax*, shall compose another district: The Counties of *Essex, Richmond, Westmoreland, Northumberland, Lancaster, Gloucester, Middlesex, King & Queen, King William, and Caroline*, shall compose another district: The Counties of *Norfolk, Accomack, Northampton, Princess Anne, Nansemond, Isle of Wight, Surry, and Southampton*, shall compose another district: The Counties of *Brunswick, Sussex, Greenville, Prince-George, Dinwiddie, Mecklenburg, Lunenburg, Amelia, Cumberland and Powhatan*, shall compose another district: And the Counties of *New-Kent, Elizabeth-City, Warwick, York, Charles City, Chesterfield, Henrico, Hanover, and James-City*, shall compose another district.

SECT. II. THAT the persons qualified by law to vote for members to the House of Delegates, in each county composing a district, shall assemble at their respective county court-houses on the second day in *February* next, and then and there vote for some discreet and proper person, being a freeholder, and who shall have been a *bona fide* resident for twelve months within such district, as a member to the House of Representatives for the United States. The High Sheriff of each County, or, in case of his sickness or inability to attend, one of the Deputy Sheriff's, being first duly sworn by a Magistrate of the County, to act impartially, and a certificate of the taking such oath, under the hand of the Magistrate delivered to him, shall conduct the said election, at which no determination shall be had by view, but each person, qualified to vote, shall fairly and publicly poll, and the name of the voter shall be duly entered under the name of the person voted for, in proper poll books, to be provided by the Sheriff, for which purpose the said Sheriff shall appoint so many writers as he shall think fit, who shall respectively take an oath, to be administered by him, or make solemn affirmation, that they will take the poll faithfully and impartially. He shall deliver a poll book to each writer, who shall enter in distinct columns under the name of the person voted for, the name of each Elector voting for such person: Like Proclamation and proceeding shall be had for conducting, continuing and closing the poll in each county of a district, as is prescribed by law in the election of Members to the General Assembly, and Proclamation shall also be made at the Court-House door, of the person having the greatest number of votes on the poll, at the closing thereof.

SECT. III. EACH elector shall be entitled to the same privilege from arrests, and be subject to the like penalty and forfeiture for failing to attend and vote at such election, as prescribed by law in the election of Members to the General Assembly; such failure to attend, to be discovered and proceeded on in like manner and under the same penalties, as is by law provided against such failures in the elections of Members to the General Assembly. Immediately after each election in a County, the Clerks of the polls having first signed the same, and made oath to the truth thereof, (a certificate of which oath under the hand of a Magistrate of the County, shall be subjoined to each poll) shall deliver the same to the Sheriff who conducted the election, and such Sheriff, together with the respective Sheriffs who conducted the poll of the several Counties in the district, but in case of sickness, death or other disability of the Sheriff who shall have conducted the poll, then any other Sheriff of the County in which such disability may happen, shall, within seven days, assemble at the Court-house of the County first named in such district, and then and there compare the polls respectively taken at the elections in their several Counties, and having ascertained by faithful addition and comparison of the numbers on the respective polls, the person having the greatest number of votes upon the whole, giving their own votes in any case of the two foremost on such polls having an equal number of votes, shall proceed to certify such election under their hands and seals in manner and form following, to wit:

"*WE, A. B. Sheriff of ——— County, (or Deputy Sheriff, as the case may be) C. D. Sheriff of ——— County (and so on, reciting the name of the Sheriff, and whether principal or deputy of each County in the District) composing one entire District, entitled by Law to elect a Member to the House of Representatives of the United States, do hereby certify and make known, that at an election held on ——— at the Court-house of our respective Counties pursuant to law, the electors qualified to vote for Members to the House of Delegates, caused to be chosen one person, to wit, E. F. to represent the said district as a Member of the House of Representatives of the United States. Given under our hands and seals, this ——— day of ———, one thousand seven hundred and eighty ———.*"

Two fair duplicates of such certificate and return, shall be made by the said Sheriffs under their hands and seals in the manner before recited, one of which shall be delivered to the person elected to represent the district, and the other shall be transmitted to the Governor and Council within ten days, under penalty of one hundred pounds upon each Sheriff, in case of failure or neglect herein, to be recovered by motion in any court of record by the Solicitor General, to the use of the Commonwealth. The said Sheriffs shall also under like penalty and recovery deliver to the Clerks of their respective Counties, within ten days after such return, the original poll books, to be by such Clerk entered of record, under the like penalty for failure, as for failing to record the poll books taken at the election of Members to the General Assembly, recoverable in like manner. It shall be the duty of the Executive, to enclose to the Congress of the United States, the certificates and returns of elections aforesaid, transmitted to them from the respective districts, without delay. Any Sheriff or deputy Sheriff refusing to take the poll when he shall be required by a candidate or elector, or taking it in other manner than is herein before prescribed, or making or signing a false certificate or return of election, as herein before directed, or making any erasure or alteration in the poll books, or refusing to suffer any candidate or elector at his own expence to take a copy of of the poll books, shall forfeit and pay two hundred pounds, which penalties may be recovered with costs in actions of debt, by any person who will sue for the same; one half to his own use, and the other half to the use of the Commonwealth.

SECT. IV. ANY candidate or other person in his behalf, who shall directly or indirectly, give or agree to give any elector or pretended elector, money, meat, drink, or other reward, in order to be elected, or for having been elected, shall forfeit and pay five hundred pounds for each offence; to be recovered with costs by action of debt, to the use of any person who will sue for the same.

SECT. V. *AND be it further enacted*, That the Sheriffs of the respective counties, shall receive for their trouble and expence in conducting the said elections, the sum of ten shillings for the day on which they shall attend to compare the different polls, together with an allowance of ferriages, and three pence per mile for travelling to and from the county in which they shall meet for that purpose, to be paid in the same manner as the electors who are to vote for a President of the United States are paid.

SECT. VI. *PROVIDED always, and be it further enacted*, That the fines and penalties hereby imposed upon Sheriffs, failing to perform any of the duties prescribed by this act, are declared not to extend to the Sheriffs within the district of *Kentucky*; but such Sheriffs shall proceed to execute the same, under the best circumstances which the promulgation of this act will admit of.



*An ACT appointing COMMISSIONERS to examine Slate River.*

[Passed the 5th of NOVEMBER, 1788.]

**B**E it enacted by the General Assembly, That Joseph Carrington, Mayo Carrington, William Cannon, Hardin Perkins, Henry Bell, David Bell, and James Couch, Gentle men, or a majority of them, shall, and they are hereby required, to examine the natural and artificial obstructions to the navigation of *Slate* river, in the county of *Buckingham*, whether it is practicable to make the same navigable, and to report their proceedings, with their opinion thereon, to the next Assembly.

*An ACT for Dividing the COUNTY of BOURBON.*

[Passed the 5th of NOVEMBER, 1788.]

**SECTION I.** **B**E it enacted by the General Assembly, That from and after the first day of *May* next, the county of *Bourbon* shall be divided into two distinct counties, that is to say: All that part of the said county lying North East of a line to begin at the junction of *Licking*, with the *Ohio*; thence up the main branch of *Licking* to the head thereof; thence a direct course to strike the nearest part of *Russell* county line; thence along the said line to *Big Sandy*, and down the same to the *Ohio* river; thence down the *Ohio* river to the beginning, shall be one distinct county, and called and known by the name of *Mason*; and the residue of the said county shall retain the name of *Bourbon*.

**SECT. II.** A COURT for the said county of *Mason* shall be held by the Justices thereof on the fourth *Tuesday* in every month, after the said division shall take place, in such manner as is by law provided for other counties, and shall be by their Commissions directed.

**SECT. III.** THE Justices to be named in the commission of the peace for the said county of *Mason*, shall meet at the house of *Robert Ranckin*, in the town of *Washington*, in the said county, on the first court day after the division takes place, and having taken the oath required by law, and administered the oath of office to, and taken bond of, the Sheriff, proceed to appoint and qualify a Clerk, and fix upon a place for holding courts in the said county, at or as near the centre thereof as the situation and convenience will admit of; and shall thenceforth proceed to erect the necessary public buildings at such place, and until such buildings be completed, to appoint any place for holding courts, as they shall think fit. PROVIDED ALWAYS, that the appointment of a place for holding courts, and of a Clerk, shall not be made unless a majority of the Justices be present; where such majority shall have been prevented from attending by bad weather, or their being at the time out of the county, in such case the appointments shall be postponed until some court day, when such majority shall be present.

**SECT. IV.** IT shall be lawful for the Governor, with advice of the Council, to appoint a person to be first Sheriff of the said county, who shall continue in office during the term, and upon the same conditions, as is by law directed for other Sheriffs. PROVIDED ALWAYS, that nothing herein contained shall be construed to hinder the Sheriff of the said county of *Bourbon* from collecting and making distress for any public dues or officers fees, which shall remain unpaid by the inhabitants thereof, at the time such division shall take place, but he shall collect, disburse, and account for, the same in like manner, as if this act had not been made.

**SECT. V.** THE court of the said county of *Bourbon* shall have jurisdiction of all actions and suits in law and equity, which shall be depending before them, at the time the said division takes place, and try and determine the same, issue process, and award execution thereon.

**SECT. VI.** IN all elections of a Senator, the said county of *Mason* shall be of the same district as the said county of *Bourbon*.

*An ACT to establish a TOWN on the Lands of Harmon Cook, in the County of Pittsylvania*

[Passed the 6th of NOVEMBER, 1788.]

**SECTION I.** **B**E it enacted by the General Assembly, That fifty acres of land, being part of a large tract lying in the county of *Pittsylvania*, the property of *Harmon Cook*, be, and the same are hereby vested in *William Witcher*, *Samuel Calland*, *William Ward*, *Lodowick Tuggle*, *Peyton Smith*, *Peterfield Jefferson*, and *Bryant Ward Nowlin*, Gentlemen, Trustees, to be by them, or a majority of them, laid out into lots of half an acre each, with convenient streets, and established a town by the name of *Cooksburg*.

**SECT. II.** SO soon as the said fifty acres of land shall be so laid off into lots and streets, the said Trustees, or a majority of them, shall proceed to sell the same at Public Auction, for the best price that can be had, the time and place of which sale shall be previously advertised for two months at the courthouse of the said county, and to convey the said lots to the purchasers in fee, subject to the condition of building on each a dwelling-house sixteen feet square at least, with a brick or stone chimney, to be finished fit for habitation within two years from the day of sale; and to pay the money arising from the sale of the said lots to the said *Harmon Cook*, or his legal representatives.

**SECT. III.** THE said Trustees, or a majority of them, shall have power, from time to time, to settle and determine all disputes concerning the bounds of the lots, and establish such rules and orders for the regular building of houses thereon, as to them shall seem best and convenient; and that in case of the death, removal out of the county, or other legal disability, of any one or more of the said Trustees, it shall be lawful for the surviving or remaining Trustees to elect others in the room of those dead or disabled, who shall be vested with the same power and authority as any other in this act particularly appointed.

SECT.



SECT. IV. THE purchasers of lots in the said town, so soon as they shall have built upon and saved the same, according to the conditions of their respective Deeds of Conveyance, shall be entitled to, and have and enjoy, all the rights, privileges, and immunities, that freeholders and inhabitants of other towns in this State, not incorporated, hold and enjoy.

SECT. V. IF the purchaser of any lot shall fail to build thereon within the time before limited, the Trustees, or a majority of them, may thereupon enter into such lot, and sell the same again, and apply the money for the benefit of the inhabitants of the said town.

## C H A P. VI.

### *An ACT for adding TRUSTEES to the RANDOLPH ACADEMY.*

[Passed the 6th of NOVEMBER, 1788.]

**BE** it enacted by the General Assembly, That *Izaac Zane, John Hadden, Abraham Claypoole, James Westfall, Henry Fink, John Prunty, Daniel Davison, Hezekiah Davison, Joseph Hastings, John McCalley, Samuel Hamway, Francis T. Brooke, Henry Dearing, Joseph Jenkins, Zachariah Sprigg, David Shepherd, John Caldwell and George McCulloch*, Gentlemen, shall be, and they are hereby constituted, Trustees of the Randolph Academy, in addition to those appointed by the act, intituled, "*An act for establishing an Academy and incorporating the Trustees thereof*," and shall have the same power and authority, as if they had been particularly named in the said recited act.

## C H A P. VII.

### *An ACT for adding TRUSTEES to the town of Greenville, in the County of Buckingham.*

[Passed the 7th of NOVEMBER, 1788.]

SECTION I. **BE** it enacted by the General Assembly, That *John Cabell, John Mosely, William Perkins, junior, Josias Jones, William Cannon, David Coupland, John Johns, David Bell, and Joseph Cabell, junior*, Gentlemen, be, and they are hereby constituted and appointed, Trustees of the town of Greenville, in the county of Buckingham, in addition to those appointed by the act, intituled, "*An act to establish a town at the Courthouse in the county of Buckingham*," and shall have the same power and authority, as any one particularly nominated in the said act.

SECT. II. PROVIDED ALWAYS, and be it further enacted, that a majority of the whole number of Trustees shall be necessary to carry into effect the said recited act.

## C H A P. VIII.

### *An ACT authorising the SALE of LANDS in the County of Albemarle, in certain cases.*

[Passed the 11th of NOVEMBER, 1788.]

**W**HEREAS it is represented to this present General Assembly, That *John Marks*, Sheriff of the county of *Albemarle*, in the years, one thousand seven hundred and eighty six, and one thousand seven hundred and eighty seven, did some time within those years, remove to the state of *Georgia*, whereby no sale of lands could legally be made to discharge the taxes due thereon, and his deputy sheriffs and their securities are thereby involved in difficulty and distress: For remedy whereof, **BE** it enacted, that *William Clarke* shall be, and he is hereby, authorised and required to sell and convey so much of the lands in the said county, whereon sufficient distress cannot be made for that purpose, as will discharge the taxes respectively due for such lands in the years aforesaid, in like manner, and under the same rules, allowance, regulations and restrictions, as directed and prescribed by law for High Sheriffs.

## C H A P. IX.

### *An ACT for establishing an INSPECTION of TOBACCO, on the Lands of John McCrae in the County of Prince William.*

[Passed the 11th of NOVEMBER, 1788.]

SECTION I. **BE** it enacted by the General Assembly, That an Inspection of Tobacco shall be, and the same is hereby established, on three acres of land, the property of *John McCrae*, Gentleman, at a place called *Rocks* on *Quantico* creek, near the town of *Dumfries*, and to include the landing below the *Rocks*, which is hereby appropriated for that special purpose, to be called and known by the name of *McCrae's Warehouse*.

SECT. II. There shall be allowed and paid annually to each of the Inspectors at the said Warehouse, the sum of sixty pounds for their salary. PROVIDED NEVERTHELESS, that the proprietor of the said warehouse shall, before the building thereof, enter into bond with sufficient security, in the penalty of two thousand pounds, in the court of the county of *Prince William*, with condition that he will not suffer any dwelling-house or storehouse with a fire place to be built on his own lands, within one hundred yards of the said Warehouse.



*An ACT for Dividing the COUNTY of FAYETTE into two distinct COUNTIES.*

[Passed the 12th of NOVEMBER, 1788.]

**SECTION I.** *BE it enacted by the General Assembly,* That from and after the first day of *May* next, the county of *Fayette* shall be divided into two distinct counties, that is to say: All that part of the said county lying Westward of a line to begin one mile and an half above *Todd's* ferry, on *Kentucky* river; thence a direct line to the *Eight Mile* tree on the *Leestown* road; thence a direct course crossing the North-fork of *Elk-horne*, four miles on a straight line below *William Russel's*; thence the same course continued to the line of *Bourbon* county; thence with the *Bourbon* line to the mouth of *Licking*; thence down the *Ohio* to the mouth of *Kentucky* river; thence up the river to the beginning, shall be one distinct county, and called and known by the name of *Woodford*; and the residue of the said county shall retain the name of *Fayette*.

**SECT. II.** A COURT for the said county of *Woodford* shall be held by the Justices thereof on the first *Tuesday* in every month after such division shall take place, in like manner as is provided by law for other counties, and shall be by their Commissions directed.

**SECT. III.** THE Justices to be named in the commission of the peace for the said county of *Woodford*, shall meet at the house of *Caleb Wallace*, Esquire, in the said county, upon the first court day after the said division takes place, and having taken the oaths prescribed by law, and administered the oath of office to, and taken bond of, the Sheriff, according to law, proceed to appoint and qualify a Clerk, and fix upon a place for holding courts in the said county at or as near the centre thereof as the situation and convenience will admit of; and thenceforth the said court shall proceed to erect the necessary public buildings at such place, and until such buildings be completed, to appoint any place for holding courts as they shall think proper. **PROVIDED ALSO** that the appointment of a place for holding courts, and of a Clerk, shall not be made, unless a majority of the Justices of the said county be present; where such majority shall have been prevented from attending by bad weather, or their being at the time out of the county, in such case the appointment shall be postponed until some court day, when a majority shall be present.

**SECT. IV.** THE Governor, with advice of the Council, shall appoint a person to be first Sheriff of the said county, who shall continue in office during the term, and upon the same conditions, as are by law appointed for other Sheriffs.

**SECT. V.** **PROVIDED ALSO**, and be it further enacted, that it shall be lawful for the Sheriff of the said county of *Fayette*, to collect and make distress for any public dues and officers fees, which shall remain unpaid by the inhabitants thereof at the time the said division takes place, and shall be accountable for the same in like manner, as if this act had not been made.

**SECT. VI.** THE court of the said county of *Fayette* shall have jurisdiction of all actions and suits which shall be depending before them at the time of the said division, and shall try and determine the same, and award execution thereon.

**SECT. VII.** IN all future elections of a Senator, the said county of *Woodford* shall be of the same district as the county of *Fayette*.

*An ACT for establishing a TOWN, and an INSPECTION of TOBACCO, on the lands of Nicholas Cabell in the County of Amherst.*

[Passed the 13th of NOVEMBER, 1788.]

**SECTION I.** *BE it enacted by the General Assembly,* That twenty acres of land lying on the North side of *James* river, a little below the mouth of *Swann* creek, in the county of *Amherst*, the property of *Nicholas Cabell*, Gentleman, be, and they are hereby, vested in *William Cabell*, *John Rose*, *Henry Martin*, *Patrick Rose*, *William Loving*, *Samuel Jordan Cabell*, *Charles Rose*, *William Cabell*, junior, *Clough Shelton*, *Abraham Warwick*, *William Bibb*, and *John Howard*, junior, Gentlemen, Trustees, to be by them, or a majority of them, laid off into lots of half an acre each, with convenient streets, and established a town by the name of *Warminster*.

**SECT. II.** SO soon as the said land shall be laid off into lots and streets, the Trustees, or a majority of them, shall proceed to sell the same at public auction, for the best price that can be had, the time and place of which sale being previously advertised at the Courthouse of the said county, on three successive court days, and convey the said lots to the purchasers in fee, subject to the condition of building on each a dwelling-house sixteen feet square, with a brick or stone chimney, to be finished fit for habitation within three years from the day of sale; and to pay the money arising from the sale of the said land to the said *Nicholas Cabell*, or his legal representatives.

**SECT. III.** THE said Trustees, or a majority of them, shall have power from time to time, to settle and determine all disputes concerning the bounds of the lots, and to establish such rules for the regular building of houses thereon, as to them shall seem best and most convenient.

**SECT. IV.** IN case of the death, or other legal disability, of any one or more of the said Trustees, it shall be lawful for the remaining Trustees to elect others in their room, and the persons so elected shall have the same power and authority, as if particularly named in this act.

**SECT. V.** THE purchasers of lots in the said town, so soon as they shall have built upon and saved the same, according to the conditions of their respective Deeds of Conveyance, shall then be entitled to, and have and enjoy, all the rights, privileges, and immunities, which the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy.

**SECT. VI.** IF the purchaser of any lot shall fail to build thereon within the time before limited, the said Trustees, or a majority of them, may thereupon enter into such lot and sell the same again, and apply the money for the benefit of the inhabitants of the said town.

**SECT. VII.** AND WHEREAS it is represented that it would be of great utility and a public convenience to establish an Inspection of Tobacco on the lands of the said *Nicholas Cabell*, on the north side of *James* river, the



the proprietor whereof is willing to build the same at his own expence; *Be it therefore enacted*, that an Inspection of Tobacco shall be, and the same is hereby, established on the lands of the said *Nicholas Cabell*, adjoining to the said town of *Warminster*, on the north side of *James river*, in the county of *Amherst*, to be called and known by the name of *Swann Creek Warehouse*.

SECT. VII. THERE shall be allowed and paid annually to each of the Inspectors at the said Warehouse, the sum of forty pounds for their salary. The Inspectors at the said Warehouse upon the delivery of their notes, or an order where they have not issued notes, shall deliver the Tobacco for transportation with a manifest for the same, expressing the owners name, the name of the skipper of the batteau or canoe, with the marks, numbers, and weights, of the tobacco, and stamped with the name of the warehouse; which tobacco, with the manifest, shall be delivered to the Inspectors at either *Byrd's*, *Shockæ*, *Rocketts*, *Manchester*, or *Rocky Ridge*, who are hereby required to receive the same, and enter the said tobacco, agreeable to the manifest, in books to be by them provided and kept for that purpose, and grant their receipts for the same, to the owners thereof, to be delivered for exportation when required.

SECT. VIII. THE Inspectors at the last mentioned Warehouses, are hereby empowered to examine and weigh any tobacco to them delivered, when required by the owner thereof, and if found to be damaged or embezzled, the same shall not be entered in the books, but remain in the Warehouse, subject to the directions of the owners, in like manner as other damaged tobacco. PROVIDED NEVERTHELESS, that nothing herein contained shall be construed to prevent the owner of any tobacco, inspected at the said Warehouse, from shipping the same, without its being delivered, or re-inspected at, any other warehouse.

SECT. IX. AND *be it further enacted*, That the Inspectors at each of the said Warehouses of *Byrd's*, *Shockæ*, *Rocketts*, *Manchester*, or *Rocky Ridge*, shall demand and receive for all tobacco brought to the said Warehouses by virtue of this act, the same Warehouse rent, as is allowed for tobacco reloaded from on board any vessel, to be appropriated in the manner directed by law for the appropriation of the rent of such reloaded tobacco. The impost and duty on tobacco inspected at the said Warehouse shall be the same, and collected, accounted for, and paid, in like manner, and under the like penalties, as is directed and prescribed by law for other Tobacco Inspections.

SECT. X. AND *be it further enacted*, That when it shall appear to the court of *Amherst* county, that a sufficient number of houses are built agreeable to law at the said Inspection, for the reception of tobacco, they shall thus proceed to recommend fit persons to serve as Inspectors at the said Inspection.

SECT. XI. PROVIDED ALWAYS, *and be it further enacted*, That if the quantity of tobacco inspected at the said Warehouse, shall not be sufficient to pay the usual charges and the Inspectors salaries, the deficiency shall not be paid by the public. AND PROVIDED ALSO, that no person shall be obliged to receive any notes in payment for tobacco passed at the said Warehouse, in discharge of any tobacco contract heretofore entered into.

## C H A P. XII.

*An ACT to prevent the IMPORTATION of CONVICTS into this Commonwealth.*

[Passed the 13th of NOVEMBER, 1788.]

SECTION I. WHEREAS it has been represented to this General Assembly by the United States in Congress, that a practice has prevailed, for some time past, of importing felons convict into this State, under various pretences, which said felons convict so imported have been sold and dispersed among the people of this State, whereby much injury hath been done to the morals, as well as the health, of our fellow-citizens: For remedy whereof, *BE it enacted*, that from and after the first day of *January* next, no Captain or Master of any vessel, or any other person, coming into this Commonwealth, by land or by water, shall import; or bring with him, any person who shall have been a felon convict, or under sentence of death, or any other legal disability incurred by a criminal prosecution, or who shall be delivered to him from any prison or place of confinement, in any place out of the United States.

SECT. II. AND *be it further enacted*, That every Captain or Master of a vessel, or any other person, who shall presume to import, or bring into this Commonwealth, by land or by water, or shall sell or offer for sale, any such person as above described, shall suffer three months imprisonment, without bail or mainprize, and forfeit and pay for every such person so brought and imported, or sold or offered for sale, the penalty of fifty pounds current money of *Virginia*, one half to the Commonwealth, and the other half to the person who shall give information thereof; which said penalty shall be recovered by action of debt, or information, in any Court of Record, in which the defendant shall be ruled to give special bail.

## C H A P. XIII.

*An ACT to amend the Act, intituled, "An Act appropriating certain Public Taxes, to the opening a Waggon Road from the State Road, to the Mouth of the little Kanawha, and for other Purposes."*

[Passed the 13th of NOVEMBER, 1788.]

SECTION I. WHEREAS it is represented that the public taxes arising within the counties of *Harrison* and *Randolph*, for the year one thousand seven hundred and eighty-seven, which were appropriated by an act of the *October* session, one thousand seven hundred and eighty-six, towards opening a waggon road from the State road, to the mouth of the little *Kanawha*, have proved inadequate to that purpose; and the Commissioners have made application to this present Assembly, to appropriate so much of the taxes for the years, one thousand seven hundred and eighty-eight, and one thousand seven hundred and eighty-nine, arising within the said counties, as shall be sufficient, not exceeding the original appropriation of two thousand pounds; *BE it therefore enacted*, That the public taxes to be collected in the said counties, for the years one thousand seven hundred and eighty-eight, and one thousand seven hundred and eighty-nine, shall be applied towards opening the said road, under the direction of the Commissioners aforesaid, in such manner as shall seem best to promote



promote the public interest. PROVIDED that the certificates to be granted pursuant to this and the said recited act, shall not exceed the said sum of two thousand pounds, nor shall the Sheriffs of the said counties be allowed in the settlement of their accounts with the public, for more certificates than the amount of that sum.

SECT. II. ALL proceedings against the Sheriffs of the said counties of *Harrison* and *Randolph*, respecting the said taxes, shall be suspended until the first day of *October*, one thousand seven hundred and ninety.

## C H A P. XIV.

*An ACT for forming a new COUNTY out of the Counties of Greenbrier and Montgomery.*

[Passed the 14th of NOVEMBER, 1788.]

SECTION I. BE it enacted by the General Assembly, That from and after the first day of *October* next, those parts of the counties of *Greenbrier* and *Montgomery*, within the following bounds, to wit; Beginning at the mouth of *Great Sandy* in the said county of *Montgomery*; thence up the said river with the line of the said county to the mountain generally known by the name of *Cumberland* mountain; thence a North East course along the said mountain to the *Great Kanawha*, crossing the same at the end of *Gawly* mountain; thence along the said mountain to the line of *Harrison* county; thence with that line to the *Ohio* river; thence down the said river, including the islands thereof to the beginning; shall form one distinct county, and be called and known by the name of *Kanawha*.

SECT. II. A COURT for the said county of *Kanawha*, shall be held by the Justices thereof on the first *Monday* in every month, after the same shall take place, in like manner as is provided by law for other counties, and shall be by their commissions directed.

SECT. III. THE Justices to be named in the commission of the peace for the said county of *Kanawha*, shall meet at the house of *William Clendinen* in the said county, upon the first court day after the said county shall take place, and having taken the oaths prescribed by law, and administered the oath of office to, and taken bond of, the Sheriff, according to law, proceed to appoint and qualify a Clerk, and fix upon a place for holding courts in the said county, at or as near the centre thereof as the situation and convenience will admit; and thenceforth the said court shall proceed to erect the necessary public buildings at such place; and until such buildings be completed, to appoint any place for holding courts, as they shall think proper. PROVIDED ALWAYS, that the appointment of a place for holding courts, and of a Clerk, shall not be made unless a majority of the Justices of the said county be present; where such majority shall have been prevented from attending by bad weather, or their being at the time out of the county, in such case the appointment shall be postponed until some court day, when a majority shall be present.

SECT. IV. PROVIDED ALSO, and be it further enacted, That it shall be lawful for the Sheriffs of each of the said counties of *Greenbrier* and *Montgomery*, to collect and make distress for any public dues and officers fees, remaining unpaid by the inhabitants thereof at the time the said county shall take place, and shall be accountable for the same in like manner, as if this act had not been made.

SECT. V. THE Governor, with advice of the Council, shall appoint a person to be first Sheriff of the said county, who shall continue in office during the term, and upon the same conditions, as are by law appointed for other Sheriffs.

SECT. VI. THE courts of the said counties of *Greenbrier* and *Montgomery* shall have jurisdiction of all actions and suits, which shall be depending before them at the time the said county of *Kanawha* shall take place, and shall try and determine the same, and award execution thereon.

SECT. VII. IN all future elections of a Senator, the said county of *Kanawha* shall be of the same district as the said county of *Greenbrier*.

## C H A P. XV.

*An ACT for establishing a TOWN near Chester's Gap, in the county of Frederick.*

[Passed the 15th of NOVEMBER, 1788.]

SECTION I. BE it enacted by the General Assembly, That fifty acres of land near *Chester's gap*, in the county of *Frederick*, the property of *Solomon Vanmeter*, *James Moore*, *Robert Haines*, *William Cunningham*, *Peter Halley*, *Original Wroe*, *John Smith*, *Allen Wiley*, *George Chick*, *William Miller*, *William Morris*, and *Henry Trout*, shall be, and the same are hereby, vested in *Thomas Allen*, *Robert Russel*, *William Jennings*, *William Headley*, *John Hickman*, *Thomas Hand*, and *Thomas Buck*, Gentlemen, Trustees, to be by them, or a majority of them, laid out into lots of half an acre each, with convenient streets, and established a town, by the name of *Frontroyal*.

SECT. II. AS soon as the said fifty acres of land shall be so laid off into lots and streets, the said Trustees, or a majority of them, shall proceed to sell the same, at public auction, for the best price that can be had, the time and place of which sale being previously advertised for two months at the courthouse of each of the said counties of *Frederick* and *Shenandoah*; the purchasers to hold the said lots respectively subject to the condition of building on each a dwellinghouse containing sixteen feet square at least, with a brick or stone chimney, to be finished fit for habitation within two years from the day of sale; and to convey the said lots to the purchasers in fee, subject to the condition aforesaid, and pay the money arising from the sale thereof to the said *Solomon Vanmeter*, *James Moore*, *Robert Haines*, *William Cunningham*, *Peter Halley*, *Original Wroe*, *John Smith*, *Allen Wiley*, *George Chick*, *William Miller*, *William Morris*, and *Henry Trout*, or their respective legal representatives.

SECT. III. THE said Trustees, or a majority of them, shall have power, from time to time, to settle and determine all disputes concerning the bounds of the said lots, and to settle such rules and orders for the regular building of houses thereon, as to them shall seem best; and in case of the death, removal out of the county, or other disability, of any of the said Trustees, it shall be lawful for the others to supply such vacancy, and the Trustees so chosen shall, to all intents and purposes, be vested with the same powers as those particularly named in this act.

SECT.



SECT. IV. THE purchasers of lots in the said town, so soon as they shall have built upon and saved the same, according to the conditions of their respective deeds, shall be entitled to, and have and enjoy, all the rights, privileges, and immunities, which the freeholders and inhabitants of other towns in this State, not incorporated, hold and enjoy. If the purchaser of any lot shall fail to build thereon within the time before limited, the said Trustees, or a majority of them, may thereupon enter into such lot, and sell the same again, and apply the money for the benefit of the inhabitants of the said town.

## C H A P. XVI.

*An ACT for establishing a TOWN on the lands of William Anderson in the county of Botetourt.*

[Passed the 15th of NOVEMBER, 1788.]

SECTION I. **BE** it enacted by the General Assembly, That fifty acres of land, the property of *William Anderson*, lying at *Anderson's ferry*, in the county of *Botetourt*, be, and they are hereby, vested in *George Skillern, John Preston, Francis Preston, Joseph Paxton, John Cartmel, and Joseph Paxton, junior, Gentlemen, Trustees*, to be by them, or a majority of them, laid out into lots of half an acre each, with convenient streets, and established a town, by the name of *Pattonsburg*.

SECT. II. THAT so soon as the said fifty acres of land shall be so laid off into lots and streets, the said Trustees, or a majority of them, shall proceed to sell the same, at public auction, for the best price that can be had, the time and place of which sale to be previously advertised for two months at the courthouse of the said county; the purchasers to hold the said lots respectively subject to the condition of building on each a dwelling-house sixteen feet square at least, with a brick or stone chimney, to be finished fit for habitation within three years from the day of sale; and the said Trustees, or a majority of them, shall convey the said lots to the purchasers in fee, subject to the condition aforesaid, and pay the money arising from the sale thereof to the said *William Anderson*, or his legal representatives.

SECT. III. THE said Trustees, or a majority of them, shall have power, from time to time, to settle and determine all disputes concerning the bounds of the said lots, and to establish such rules and orders for the regular building of houses thereon, as to them shall seem best; and in case of the death, removal out of the county, or other legal disability, of any one or more of the said Trustees, it shall be lawful for the remaining Trustees to choose others in the room of those so dead, or disabled, and the persons so chosen shall, to all intents and purposes, be vested with the same power and authority, as any other in this act particularly appointed.

SECT. IV. THE purchasers of lots in the said town, so soon as they shall have built upon and saved the same, according to the conditions of their respective Deeds of Conveyance, shall then be entitled to, and have and enjoy, all the rights, privileges, and immunities, which the freeholders and inhabitants of other towns in this State, not incorporated, hold and enjoy.

SECT. V. IF the purchaser of any lot shall fail to build thereon within the time before limited, the said Trustees, or a majority of them, may thereupon enter into such lot, and sell the same again, and apply the money for the benefit of the inhabitants of the said town.

## C H A P. XVII.

*An ACT for establishing a TOWN on the Lands of William Crow, in the County of Botetourt.*

[Passed the 15th of NOVEMBER, 1788.]

SECTION I. **BE** it enacted by the General Assembly, That forty acres of land, whereon *William Crow* now lives, lying at his ferry on the South side of *James river*, in the county of *Botetourt*, shall be, and they are hereby, vested in *Archibald Stuart, George Hancock, Thomas Rowland, John Wood, Henry Bowyer, Patrick Lockhart, and Matthew Wilson, Gentlemen, Trustees*, to be by them, or a majority of them, laid out into lots of half an acre each, with convenient streets, and established a town, by the name of *Crowsville*.

SECT. II. SO soon as the said forty acres of land shall be so laid off into lots and streets, the said Trustees, or a majority of them, shall proceed to sell the same, at public auction, for the best price that can be had, the time and place of which sale to be previously advertised for six months in the *Virginia Gazette*, and at the courthouse of the said county; the purchasers to hold the said lots respectively subject to the condition of building on each a dwelling-house sixteen feet square at least, with a brick or stone chimney, to be finished fit for habitation within three years from the day of sale; and the said Trustees, or a majority of them, shall convey the said lots to the purchasers in fee, and the money arising from the sale of the said lots, shall remain in the hands of the said Trustees, subject to the discharge of a mortgage made by the said *William Crow*, of the aforesaid lands, to certain *British* subjects.

SECT. III. THE said Trustees, or a majority of them, shall have power, from time to time, to settle and determine all disputes concerning the bounds of the said lots, and to establish such rules and orders for the regular building of houses thereon, as to them shall seem best; and in case of the death, removal out of the county, or other legal disability, of any one or more of the said Trustees, it shall be lawful for the remaining Trustees, to choose others in the room of those so dead, or disabled, and the persons so chosen shall, to all intents and purposes, be vested with the same power and authority, as any one in this act particularly appointed.

SECT. IV. THE purchasers of lots in the said town, so soon as they shall have built upon and saved the same, according to the conditions of their respective Deeds of Conveyance, shall then be entitled to, and have and enjoy, all the rights, privileges, and immunities, which the freeholders and inhabitants of other towns in this State, not incorporated, hold and enjoy.

SECT. V. IF the purchaser of any lot, shall fail to build thereon within the time before limited, the said Trustees, or a majority of them, may thereupon enter into such lot, and sell the same again, and apply the money for the benefit of the inhabitants of the said town.



*An ACT for incorporating an ACADEMY, in the County of Nelson.*

[Passed the 15th of NOVEMBER, 1788.]

**SECTION I.** WHEREAS, it is represented to this present General Assembly, That many persons would make considerable donations to the Seminary of Learning at the place called *Baird's town*, in the county of *Nelson*, was a law to pass for incorporating the same: *BE it therefore enacted*, That from and after the passing of this act, the said Seminary shall obtain the name of *Salem Academy*, and that *John Caldwell, Andrew Hynes, Isaac Morrison, Tarah Templin, Matthew Walton, John Steele, Philp Philips, Walter Beall, George Harrison, James Baird, Joseph Barnet, James Morrison, James Allen, Cuthbert Harrison, and William Taylor*, Gentlemen, be, and they are hereby, constituted, a body politic and corporate, by the name of the Trustees of *Salem Academy*, and shall have perpetual succession and a common seal, and shall have power and capacity to purchase, receive, and possess lands and tenements, goods and chattels, either in fee or any lesser estate therein, and the same to grant, let, sell, or assign, and to plead or be impleaded, prosecute and defend, all causes in law or equity.

**SECT. II.** THE said Trustees, or a majority of them, when assembled, shall have power to make such bye-laws and ordinances, as they shall think best for the good government of the said Academy, and to perform and do any thing respecting the property vested therein: **PROVIDED** such bye-laws and ordinances shall not be contrary to the laws and constitution of this Commonwealth.

**SECT. III.** THEY shall choose a President and Secretary out of their own body; and in case of vacancy by death, or otherwise, of any one or more of the said Trustees, the same shall be supplied by a majority of the remaining Trustees.

*An ACT for establishing an INSPECTION of TOBACCO, on the Lands of Isaac Ruddle, in the County of Bourbon.*

[Passed the 18th of NOVEMBER, 1788.]

**SECTION I.** *BE it enacted by the General Assembly*, That an inspection of tobacco shall be, and the same is hereby, established on the lands of *Isaac Ruddle*, at the confluence of *Stoner's* and *Hinkson's* forks of *Licking creek*, in the county of *Bourbon*, to be called and known by the name of *Ruddle's Warehouse*.

**SECT. II.** *AND be it further enacted*, That it shall not be lawful for the said *Isaac Ruddle*, or any other person, to build any dwelling-house, or other house, in which fire shall be at any time used, within fifty yards of the said Warehouse.

**SECT. III.** THERE shall be allowed and paid annually to each of the Inspectors, at the said Warehouse, the sum of thirty pounds for their salary. **PROVIDED ALWAYS**, that if the quantity of tobacco inspected at the said Warehouse, shall not be sufficient to pay the usual charges, and the Inspector's salaries, the deficiency shall not be paid by the public.

**SECT. IV.** THE Court of the county of *Bourbon*, shall, as soon as the said Warehouses are built, nominate four persons to execute the office of Inspectors at the said Warehouses, two of whom shall be commissioned as Inspectors, and a third as additional Inspector, in like manner as the Inspectors at other Warehouses within this Commonwealth. The said Inspectors shall enter into the same bonds, be subject to the penalties, and in all respects be governed by the rules and regulations prescribed by the laws now in force for regulating the inspection of tobacco, and the exportation thereof.

*An ACT for giving further Time to the Owners of SURVEYS to return the Plats and Certificates thereof into the Land Office.*

[Passed the 21st of NOVEMBER, 1788.]

**SECTION I.** WHEREAS the law authorizing the Register of the Land Office, to receive into his office plats and certificates of surveys that have been or shall be made, will expire on the last day of *December*, one thousand seven hundred and eighty-eight, and it is represented to this General Assembly that many persons through unavoidable accidents have been prevented from returning their plats and certificates aforesaid, to the Register of the Land Office, whereby their lands may be forfeited: For remedy whereof, *BE it enacted by the General Assembly*, That the further time of two years, after the passing of this act, shall be allowed for returning the same, within which time the Register of the Land Office, or his Deputy, shall receive all plats and certificates of survey, although not returned within the time heretofore limited by law; and such lands shall not be considered as forfeited, or liable to forfeiture, on that account.

**SECT. II.** *AND WHEREAS* by an act passed in the year, one thousand seven hundred and eighty-six, intituled "*An act for reviving, continuing, and amending an act, to revive and amend in part an act for giving further time to enter certificates for settlement rights, and for locating warrants upon pre-emption rights, and for other purposes*," the owners of entries and surveys on the Eastern Waters were required to survey the said entries and return the said surveys on or before the first day of *October*, one thousand seven hundred and eighty-eight, and it is expedient that a further time should be allowed them to comply with the requisitions of the said act: *BE it therefore enacted by the General Assembly*, That so much of the said recited act, as relates to the entries and surveys of lands on the Eastern Waters, shall continue and be in force until the thirty-first day of *December*, one thousand seven hundred and ninety.



*An ACT giving further Time to the Owners of ENTRIES on the WESTERN WATERS to survey the same.*

[Passed the 21st of NOVEMBER, 1788.]

SECTION I. **W**HEREAS the act passed in the year of our Lord, one thousand seven hundred and eighty five, intituled "*An act to repeal an act, intituled 'An act concerning entries and surveys on the Western Waters, and for other purposes,'*" directed that owners of entries on the Western Waters should appoint agents or attornies in each county where such entries were made, and notify such appointments to the principal surveyor of the county, by the first day of February, one thousand seven hundred and eighty seven, and declared that on failure thereof such entries should be void.

SECT. II. **AND** WHEREAS by an act passed in the year of our Lord, one thousand seven hundred and eighty six, it was declared that no entry should be forfeited under the above recited act, for and during the term of two years, which will expire during the present session of Assembly, and it is expedient that the same should be further continued: *BE it therefore enacted by the General Assembly, That the further time of two years, shall be allowed to the owners of entries on the Western Waters to comply with the requisitions of the above recited act, during which time no such entry shall be forfeited.*

*An ACT to alter the COURT DAY of the County of Madison, and for altering the Court of QUARTER SESSION, in the County of Pendleton.*

[Passed the 21st of NOVEMBER, 1788.]

SECTION I. **B**E it enacted by the General Assembly, That the Court for the county of Madison, shall, from and after the first day of February next, be held on the first Tuesday in every month; any law to the contrary notwithstanding.

SECT. II. **AND** be it further enacted, That the Court of Quarter Session for the county of Pendleton, heretofore held in the month of November, shall, from and after the first day of May next, be held in the month of December annually; any law to the contrary notwithstanding.

*An ACT to repeal part of an Act, directing the Trial of SLAVES committing capital Crimes, and for the more effectual punishing Conspiracies and Insurrections of them, and for the better Government of NEGROES, MULATTOES, or INDIANS, bond or free.*

[Passed the 21st of NOVEMBER, 1788.]

**B**E it enacted, That so much of an act, intituled "*An act directing the trial of slaves committing capital crimes, and for the more effectual punishing conspiracies and insurrections of them, and for the better government of negroes, mulattoes, and Indians, bond or free.*" as declares, that "*Where any slave shall happen to die by reason of any stroke or blow during his or her correction, by his or her owner, or by reason of any accidental blow whatsoever given by such owner, no person concerned in such correction or accidental homicide, shall be liable to any prosecution or punishment for the same, unless upon examination before the County Court, it shall be proved by the oath at least of one lawful and credible witness, that such slave was killed wilfully, maliciously, or designedly; and no person indicted for the murder of a slave, and upon trial found guilty of man-slaughter only, shall incur any forfeiture or punishment for such offence or misfortune;*" shall be, and the same is hereby repealed.

*An ACT to repeal an Act, intituled "An Act to Vest certain escheatable Property in the Children of William Short, deceased."*

[Passed the 24th of NOVEMBER, 1788.]

**W**HEREAS it was represented to the General Assembly, in the year of our Lord, one thousand seven hundred and eighty-two, that a certain George Ker had died intestate, possessed of sundry slaves, which had become escheatable to the Commonwealth, the heir at law of the said George Ker having, previous to the late war, removed himself to some part of the British dominions, and not having then returned; in consequence whereof, an act was passed for vesting all the slaves whereof the said George Ker, died possessed, in the children of William Short, deceased. **AND** WHEREAS Edward Ker, junior, the heir at law of the said George Ker, deceased, has lately returned to this Commonwealth, and it is just that the above-mentioned act should be repealed, that the said Edward Ker, junior, may be at full liberty to prosecute his right to the slaves therein mentioned: *BE it therefore enacted by the General Assembly, That the act passed in the year of our Lord, one thousand seven hundred and eighty-two, intituled "An act to vest certain escheatable property in the children of William Short, deceased," shall be, and the same is hereby repealed.*



*An ACT establishing a TOWN on the Lands of DAVID ROSS, at the POINT of FORK.*

[*Passed the 25th of NOVEMBER, 1788.*]

SECTION I. **B**E it enacted by the General Assembly, That one hundred and fifty acres of land, at the confluence of the *Fluvanna* and *Rivanna* rivers, commonly called the *Point of Fork*, the property of *David Ross*, shall be, and they are hereby, vested in *Thomas Pleasants*, senior, *Thomas Fleming Bates*, *Robert Lewis*, senior, *George Thompson*, *Tunstall Quarles*, *Samuel Richardson*, and *Duncan McLauchlan*, Gentlemen, Trustees, to be by them, or any four of them, laid off into lots, with convenient streets, and shall be established a town, by the name of *Columbia*.

SECT. II. SO soon as the said one hundred and fifty acres of land shall be so laid off into lots and streets, the said Trustees, or a major part of them, shall proceed to sell the lots, at public auction, on terms to be prescribed by the proprietor, for the best price that can be had, the time and place of which sale shall be previously advertised for two months at the doors of the courthouses of *Fluvanna* and *Goochland* counties. The purchasers of the said lots respectively shall hold the same, subject to the condition of building on each a dwelling-house sixteen feet square at the least, with a brick or stone chimney, to be finished fit for habitation within four years from the day of sale. The said Trustees, or a major part of them, shall convey the said lots to the purchasers in fee-simple, subject to the condition aforesaid, and shall pay the money or bonds arising from the sale thereof, to the said *David Ross*, or his legal representatives.

SECT. III. THE said Trustees, or a major part of them, shall have power to settle and determine, from time to time, all disputes concerning the bounds of the said lots, and to make such regulations for the regular building of houses thereon, as to them shall seem most proper.

SECT. IV. IN case of the death, removal out of the counties of *Goochland* or *Fluvanna*, or other disability, of any of the said Trustees, it shall be lawful for the others to supply such vacancy, and the persons so chosen, shall have the same power and authority, as those named in this act.

SECT. V. The purchasers of the lots, when they shall have built upon the same, according to the conditions of their deeds, shall have the same rights, privileges, and immunities, that the inhabitants of other towns within this Commonwealth, not incorporated, hold and enjoy.

SECT. VI. IF the purchaser of any lot shall fail to build thereon, according to the condition of his deed, the Trustees, or a major part of them, may thereupon enter into such lot, and sell the same again, and apply the money arising therefrom, in such manner as shall appear most advantageous to the said town. PROVIDED ALWAYS, that nothing herein contained, shall be construed or taken to give the said Trustees a power to dispose of such lots of the said one hundred and fifty acres, as have been laid out and built upon by the present proprietor.

*An ACT for establishing a TOWN on the Lands of Willoughby Tebbs, in the County of Prince William.*

[*Passed the 27th of NOVEMBER, 1788.*]

SECTION I. **B**E it enacted by the General Assembly, That fifty acres of land, lying on the South side of the mouth of *Quantico* creek, and on *Potowmack* river, in the county of *Prince William*, the property of *Willoughby Tebbs*, so soon as he shall lay off the same into lots of half an acre each, with convenient streets, be established a town, and called and known by the name of *Carrborough*. That *Cuthbert Bullit*, *William Carr*, *John Hedges*, *Spence Grayson*, *John Linton*, *William Linton*, *William Grayson*, *Burr Harrison*, and *John Cannon*, Gentlemen, are hereby constituted Trustees of the said town, who, or a majority of them, shall, from time to time, settle and determine all disputes concerning the bounds of the lots, and have power to establish such rules and orders for the regular building of houses thereon, as to them shall seem best.

SECT. II. IN case of the death, removal out of the county, or other legal disability, of any one or more of the said Trustees, it shall be lawful for the remaining Trustees to elect others in their stead, who shall be vested with the same power and authority, as any one in this act particularly appointed.

SECT. III. *AND* be it further enacted, That so soon as the purchasers of lots in the said town shall have built thereon a dwelling-house sixteen by twelve feet, with a brick or stone chimney, they shall respectively be entitled to, and have and enjoy, all the rights, privileges, and immunities, which the freeholders and inhabitants of other towns, in this State, not incorporated, hold and enjoy.

*An ACT For incorporating an ACADEMY, in the County of Fauquier.*

[*Passed the 28th of NOVEMBER, 1788.*]

SECTION I. **F**OR incorporating the Academy at or near the courthouse, in the county of *Fauquier*, *BE* it enacted by the General Assembly, That *William Edmonds*, *Martin Picket*, *Francis Whiting*, *Elias Edmonds*, *Edward Digges*, *Thomas Digges*, *Gustavus Browne Horner*, *William Picket*, *Humphrey Brooke*, and *William Stuart*, Gentlemen, and those hereafter to be elected, and their successors for ever, are hereby made and constituted a body corporate and politic, by the name of the Trustees of *Warren Academy*. They shall have power and capacity to purchase, receive, and possess lands and tenements, goods and chattels, either in fee or any lesser estate therein, and the same to grant, sell, or assign, and to plead and be impleaded, prosecute and defend, all causes in law or equity.

SECT.



SECT. II. THE said Trustees, or a majority of them, when assembled, shall have power to make such bye-laws and ordinances, as they shall think best for the good government of the said Academy, and to perform and do any act respecting the property vested therein: PROVIDED such bye-laws and ordinances shall not be inconsistent with the laws and constitution of this Commonwealth.

SECT. III. THEY shall choose a President and Secretary out of their own body; and in case of vacancy, by death or otherwise, of any one or more of the said Trustees, the same shall be supplied by a majority of the remaining Trustees.

SECT. IV. AND be it further enacted, That the lands conveyed to the former Trustees of the said Academy, by *Richard Henry Lee*, Esquire, shall be vested in the Trustees appointed by this act, as effectually as if such conveyance had been executed and made to them after the passing of this act.

C H A P. XXVIII.

*An ACT amending the Act to prevent malicious MAIMING and WOUNDING.*

[Passed the 29th of NOVEMBER, 1788.]

SECTION I. **W**HEREAS it hath been doubted, whether since the revolution, the offences enumerated in the act, intituled, "*An act to prevent malicious maiming and wounding*," can be committed upon or against any citizen of this Commonwealth; BE it therefore enacted, that any person guilty of any of the said offences, upon or against any person whatsoever, within the Commonwealth, shall be, and is hereby, declared to be a felon, and shall suffer as in case of felony. But no attainder of such felony shall cause any corruption of blood, or forfeiture of estate whatsoever.

SECT. II. SO much of the said act, as comes within the purview of this, is hereby repealed.

C H A P. XXIX.

*An ACT for giving further Time to the PURCHASERS of LOTS in the Towns of Lewisburg, Stevensburg, and Kinsale, to build upon the same.*

[Passed the 29th of NOVEMBER, 1788.]

SECTION I. **W**HEREAS it has been represented to the present General Assembly, that the purchasers of lots in the town of *Lewisburg*, in the county of *Greenbrier*, have been prevented by unavoidable accidents from building upon their lots, according to the conditions of their deeds, and it is judged expedient that a farther time should be allowed them for that purpose: BE it therefore enacted by the General Assembly, That the farther time of two years, from and after the passing of this act, shall be allowed to the purchasers of lots in the said town of *Lewisburg*, to build upon the same, within which time no such lot shall be forfeited for any failure to comply with the conditions expressed in the deeds before mentioned.

SECT. II. AND be it further enacted, That the farther time of three years, from and after the passing of this act, shall be, and is hereby, allowed the proprietors of lots in the towns of *Kinsale*, in the county of *Westmoreland*, and *Stevensburg*, in the county of *Culpeper*, to build upon and save the same; any law to the contrary notwithstanding.

C H A P. XXX.

*An ACT for SELLING part of a Lot in the Town of Lexington, and County of Rockbridge.*

[Passed the 6th of DECEMBER, 1788.]

**B**E it enacted, That the Trustees of the town of *Lexington*, in the county of *Rockbridge*, or a majority of them, shall, as soon as may be, sell at public auction, for the best price that can be had, such a part of the lot in the said town, whereon the courthouse is erected, as to them shall seem most proper, convey the same to the purchaser or purchasers in fee, and apply the money arising from the sale thereof, as the Court of the said county shall direct, towards lessening the levy of their county. PROVIDED ALWAYS, that it shall not be lawful for the said Trustees to sell that part of the said lot whereon the courthouse is erected, nor more than one moiety of the said lot.

C H A P. XXXI.

*An ACT prescribing the mode of Adverting ESTRAYS on the Western Waters.*

[Passed the 6th of DECEMBER, 1788.]

SECTION I. **B**E it enacted by the General Assembly, That from and after the first day of *February* next, Estrays taken up in the District of *Kentucky*, shall be advertised in the *Kentucky Gazette*, in the same manner as Estrays are directed to be advertised in the *Virginia Gazette*.

SECT. II. PROVIDED ALWAYS, and be it further enacted, That if more than one Estray shall be described in an advertisement, the Clerks of the County Courts in the said District, and the Printer thereof, shall not demand more than one shilling for every such additional Estray.

SECT. III. ALL persons shall have access to the Estray-book, without paying any fee therefor; any law to the contrary notwithstanding.



*An ACT Concerning INCESTUOUS MARRIAGES.*

[Passed the 8th of DECEMBER, 1788.]

**SECTION I.** *BE it enacted by the General Assembly,* That if any person whatsoever shall hereafter marry within the following degrees, that is to say: If the son shall marry his mother or step-mother, the brother his sister, the father his daughter or his son's daughter, or his daughter's daughter, or if the son shall marry the daughter of his father, begotten and born of his step-mother, or the son shall marry his aunt, being his father's or his mother's sister, or marry his uncle's wife, or the father shall marry his son's wife, or the brother shall marry his brother's wife, or any man shall marry his wife's daughter, or his wife's son's daughter, or his wife's daughter's daughter, or his wife's sister, every person or persons so unlawfully married, shall be separated by the definitive sentence or judgment of the High Court of Chancery; and the Attorney-General, upon any information made to him, of any such marriage, shall and may exhibit a bill to the Judges of the said Court against any persons so unlawfully married, who shall be compelled upon oath to answer the same; and upon such bill and answer, and the depositions of witnesses, where the same shall be necessary, the said Court shall and may proceed to give judgment, and to declare the nullity of such marriage, and moreover may punish the parties by fine: and, if the Court see fit, may cause the parties so separated, to give bond with sufficient surety, that they will not hereafter cohabit, in such penalty as the said Court shall judge reasonable. **PROVIDED ALWAYS,** that no punishment by fine shall be imposed on any person until the same shall have been assessed by a Jury duly impannelled at the bar of the said Court. All the fines imposed by virtue of this act shall be to the use of the poor of the county wherein the offence or offences shall be committed. **PROVIDED ALWAYS,** that nothing herein contained shall be construed to render illegitimate the issue of any marriage so annulled.

**SECT. II.** SO much of all and every act or acts, as relates to incestuous marriages or copulations, shall be, and the same is hereby repealed.

*An ACT for vesting in Trustees the Interest which the Commonwealth now hath, or hereafter may have, in a Tract of Land, whereof Robert Gilbert, died seized.*

[Passed the 8th of DECEMBER, 1788.]

**WHEREAS** it hath been represented to the present General Assembly, that *Robert Gilbert*, departed this life, in the year one thousand seven hundred and eighty-six, intestate, and without heirs, leaving a personal estate not sufficient for the payment of his debts, and possessed of a tract of land in the county of *Jefferson*, which has become escheatable to the Commonwealth, and it is more agreeable to the principles of justice that the said land should be applied to the discharge of the debts of the said *Robert Gilbert*, and the support of his widow, than that the public should be benefited thereby; *BE it therefore enacted by the General Assembly,* that all the right and interest which the Commonwealth now hath to the said tract of land, so lying and being in the county of *Jefferson*, as aforesaid, and granted to the said *Robert Gilbert*, by patent bearing date the tenth day of *July*, one thousand seven hundred and eighty-six, or which may hereafter be established therein by an office to be found, shall be, and the same is hereby, vested in *John Beckley*, *John Hopkins*, and *Thomas Williams*, Trustees, or the survivor of them. When the right of the Commonwealth to the said land shall be fully established agreeably to the directions of the act, intituled, "*An act concerning Escheators*," the said Trustees, or the survivor of them, shall, when required by *David Lambert*, surviving administrator of the said *Robert Gilbert*, deceased, or by any other person who may hereafter become the administrator of the estate of the said *Robert Gilbert*, or by *Sarah Gilbert*, widow and relict of the said *Robert Gilbert*, or her legal representatives, sell the said tract of land for the best price that can be gotten. One-third of the purchase money shall be paid by the said Trustees to the said *Sarah Gilbert*, or her legal representatives, and the other two thirds shall be paid to the administrator of the goods and chattels of the said *Robert Gilbert*, deceased, to be applied by him in a due course of administration to the discharge of the debts of the said *Robert Gilbert*, deceased. And in case there should be any surplus, after paying such debts, the same shall by the said administrator, be paid into the public treasury.

*An ACT for the Punishment of the Crime of BIGAMY.*

[Passed the 8th of DECEMBER, 1788.]

**WHEREAS** it hath been doubted, whether Bigamy or Polygamy be punishable by the laws of this Commonwealth; *BE it enacted by the General Assembly,* that if any person or persons within this Commonwealth, being married, or who shall hereafter marry, do at any time after the first day of *February*, which shall be in the year of our Lord, one thousand seven hundred and eighty-nine, marry any person or persons, the former husband or wife being alive, that then every such offence shall be felony, and the person or persons, so offending, shall suffer death as in cases of felony: And the party and parties so offending, shall receive such and like proceeding, trial and execution, within this Commonwealth, as if the offence had been committed in the county where such person or persons shall be taken or apprehended. **PROVIDED,** that nothing herein contained shall extend to any person or persons whose husband or wife shall be continually remaining beyond the seas by the space of seven years together, or whose husband or wife shall absent him or herself, the one from the other, by the space of seven years together, in any part within the United States of *America* or elsewhere, the one of them not knowing the other to be living within that time. **PROVIDED ALSO,** that nothing herein contained shall extend



extend to any person, or persons, that are, or shall be, at the time of such marriage, divorced by lawful authority; or to any person, or persons, where the former marriage hath been, or hereafter shall be by lawful authority, declared to be void, and of no effect; nor to any person, or persons, for or by reason of any marriage had or made, or hereafter to be had or made, within age of consent: PROVIDED ALSO, that no attainder for the offence made felony by this act, shall make, or work any corruption of blood, or forfeiture of estate whatsoever.

## C H A P. XXXV.

An ACT relating the escheat and forfeiture accruing on the conviction and attainder of  
JOHN PRICE POSEY, deceased.

[Passed the 9th of DECEMBER, 1788.]

SECTION I. **W**HEREAS John Price Posey, hath been convicted and attainted of arson, and it is contrary to the lenity, which a republican government ought in such cases to observe towards its citizens, that the escheat and forfeiture of estate, incident thereto by law, should be enforced against a family already oppressed by misfortune, and more particularly against his wife, from whose patrimony such estate hath principally, if not wholly, arisen. BE it therefore enacted by the General Assembly, That all right, title, interest, claim, and demand, which now exists in the commonwealth, or upon any office hereafter to be found, shall be established therein, to the estate of the said John Price Posey, deceased; shall pass, descend, and vest, in and to, the same person, or persons, and be subject to all, and every claim, and claims, in law and equity, of all and every person, and persons whatsoever, in the same manner, as if no conviction or attainder of the said John Price Posey, had taken place.

## C H A P. XXXVI.

An ACT to amend the act, intituled "An act to regulate the INSPECTION of  
FLOUR."

[Passed the 10th of DECEMBER, 1788.]

SECTION I. **W**HEREAS the mode of recovering the penalties imposed by an act of the last session of the General Assembly, intituled "An act to regulate the inspection of flour and bread," is attended with great delay, and many persons are thereby prevented from suing for the same: BE it therefore enacted by the General Assembly, That where the penalties and forfeitures are over the sum of twenty five shillings, and do not exceed five pounds, the same shall be recoverable by petition in the same manner, as is by law directed in case of petitions for the like sum of money: And where the penalty incurred shall exceed the sum of five pounds, the prosecutor may sue for the same, in the court of the county, or corporation, where the defendant resides, or where the offence was committed. The prosecutor may make oath before a Justice of the Peace, of the nature of the action, and that he verily believes the defendant hath incurred the penalty and forfeiture thereby demanded, which the clerk, upon a certificate thereof to him produced, shall indorse upon the back of the writ, and thereupon the defendant shall be ruled to give special bail. So much of the said recited act, or any other act of Assembly, as comes within the purview of this act, shall be, and the same is, hereby repealed.

## C H A P. XXXVII.

An ACT relating the escheat accruing on the death of ROSCOW COLE BINGHAM, deceased.

[Passed the 10th of DECEMBER, 1788.]

SECTION I. **W**HEREAS Roscow Cole Bingham, deceased, was in his lifetime seized in fee-simple, under the will of his father Stephen Bingham, of a certain tract of land, lying, and being, in the county of King William: And it is represented to this present General Assembly, that the said Roscow Cole Bingham, departed this life under age, intestate, and without leaving any person capable by law, of inheriting the said land, and that Stephen Bingham, would, but for the impediment of half blood, have been the heir of the said Roscow Cole Bingham, and it is not reasonable that the commonwealth should derive benefit from a principle of escheat, inconsistent with the genius of Republican Government: BE it enacted by the General Assembly, That all the right, title, interest, claim, and demand, which now exists in the commonwealth, or upon any office, hereafter to be found, shall be established therein, shall pass, descend, and vest, in and to, the same person, or persons, and in the same manner, as if no defect of heritable blood had taken place; saving however to all persons, and bodies, politic, and corporate, other than those claiming under the commonwealth, all legal or equitable rights, which they might have asserted to the said land, if no defect of heritable blood had taken place.



## C H A P. XXXVIII.

*An ACT to disable certain OFFICERS under the CONTINENTAL GOVERNMENT, from holding OFFICES under the authority of the COMMONWEALTH.*

[Passed the 8th of DECEMBER, 1788]

SECTION I. **W**HEREAS the good people of this commonwealth in Convention assembled, did, on the twenty fifth day of June last, ratify a Constitution for the Government of the United States of America, the operations of which will soon commence;

SECT. II. **AND WHEREAS** it is judged expedient and necessary, that all those who shall be employed in the administration of the said Government, ought to be disqualified from holding or administering any office, or place whatsoever, under the government of this commonwealth: *BE it therefore enacted by the General Assembly,* That the members of the Congress of the United States, and all persons who shall hold any Legislative, Executive, or Judicial office, or other lucrative office whatsoever, under the authority of the United States, shall be ineligible to, and incapable of holding any seat in either House of the General Assembly, or any Legislative, Executive, or Judicial office, or other lucrative office whatsoever, under the government of this commonwealth: *Provided nevertheless,* That such disqualification shall not extend to militia officers, or the magistrates of county courts.

## C H A P. XXXIX.

*An ACT for establishing an inspection of TOBACCO in the town of NEWPORT and county of PRINCE WILLIAM.*

[Passed the 11th of DECEMBER, 1788.]

SECTION I. **BE it enacted by the General Assembly,** That an inspection of tobacco shall be, and the same is hereby established on the lots of *Cuthbert Bullitt*, Gentleman, in the town of *Newport*, and county of *Prince William*, numbered twenty nine, thirty, thirty one, and thirty two, in the plot of the said town (the proprietor being willing to build convenient and proper houses for the reception of tobacco, at his own expense and shall be called and known by the name of *Bullitt's warehouse*. There shall be allowed and paid annually to each of the inspectors at the said warehouse, the sum of fifty pounds for their salary. The appointment of inspectors and all other regulations respecting the said warehouse shall be the same as directed by law for other inspections and not contrary to this act. If the quantity of tobacco inspected at the said warehouse shall not be sufficient to pay the usual charges and inspectors salaries, the deficiency shall not be paid by the public. The said *Cuthbert Bullitt*, shall, on or before the first day of May next, give bond, with sufficient security, in the court of the said county of *Prince William*, in the penalty of two thousand pounds, payable to the Governor, for the time being, and his successors, for the use of the commonwealth, with condition that he will not build nor suffer to be built, any house with a fire place therein, on his lots or lands, within one hundred yards of the said warehouse.

## C H A P. XL.

*An ACT for altering the times of holding the Courts in the county of HENRY.*

[Passed the 13th of DECEMBER, 1788.]

SECTION I. **BE it enacted by the General Assembly,** That from and after the thirty first day of January next a court for the county of *Henry* shall be held by the Justices thereof, on the last Monday in every month, and that a court of quarter-sessions shall be held for the said county in each of the months of February, April, July, and October, in every year, instead of the months heretofore appointed for that purpose any law to the contrary hereof, notwithstanding.

## C H A P. XLI.

*An ACT for altering the days of holding courts in the town of FREDERICKSBURG and county of SUSSEX.*

[Passed the 13th of DECEMBER, 1788.]

SECTION I. **BE it enacted,** That from and after the first day of February next, a Court of Hustings for the town of *Fredericksburg*, shall be held on the fourth Friday in every month, instead of the day heretofore appointed by law.

SECT. II. **AND be it further enacted,** That from and after the said first day of February next, a court for the county of *Sussex*, shall be held on the first Thursday in every month, instead of the day heretofore appointed by law.



## An ACT concerning the MILITIA.

[Passed the 15th of DECEMBER, 1788.]

SECTION I. **B**E it enacted by the General Assembly, That each of the militia in the several counties on the Western Waters, shall keep always ready a good musket or rifle, half a pound of good powder, and one pound of lead, to be produced whenever called for by his commanding officer, or be fined at the discretion of a court martial, in any sum not exceeding ten shillings for each neglect; unless he be so poor as to be unable to furnish the same, in which case the former regulations established by the act of the *October* session, in one thousand seven hundred and eighty five, concerning poor soldiers, shall be in force.

SECT. II. **AND** be it further enacted, That regimental musters shall in future be substituted in lieu of general musters. It shall be lawful for any court martial to remit any fine assessed at the last court of enquiry, and assessment of fines held for the county, if to them it shall appear just and reasonable, and where any person shall have paid such fine, it shall be repaid by order of such court.

SECT. III. **AND** WHEREAS by the act passed at the *October* session of the General Assembly, one thousand seven hundred and eighty seven, intituled "An act to amend the several acts respecting the militia;" the Governor, with advice of Council, was authorized to issue commissions for officers to a troop of cavalry, to be raised and annexed to every regiment of militia, which commissions will become void, unless the troops are compleated within twelve months from the date thereof, and it appears that a further time should be allowed to the officers to compleat the said troops: **BE it therefore enacted**, That the further time of twelve months from the passing of this act, shall be allowed for compleating the said troops, until the expiration of which time, none of the commissions aforesaid, shall become void. So much of every act as comes within the purview of this act, is hereby repealed.

## An ACT for opening and improving the navigation of MATTAPONY RIVER.

[Passed the 15th of DECEMBER, 1788]

SECTION I. **W**HEREAS it is represented to the General Assembly, that the opening, improving, and extending the navigation of *Mattapony* river, to the highest part practicable, will be of public utility, and that many persons are willing to subscribe considerable sums of money for effecting the same: **BE it therefore enacted**, that *Edmund Pendleton, William Nelson, John Baylor, Edmund Pendleton, jun. John Hoopes, John Page, Mungo Roy, John Taylor, Francis Corbin, Benjamin Temple, Larkin Smith, Anderson Scott, Anthony New, and Lawrence Battaille*, be, and they are hereby constituted and appointed trustees, for clearing, improving and extending the navigation of the said river, from *Jedd's bridge*, in the counties of *King William* and *King & Queen*, as far up the same as they may judge it practicable, so as to have a sufficient depth and width of water to navigate boats, batteaus, or canoes, capable of carrying four hogheads of tobacco; and they are authorized to take and receive subscriptions for that purpose. Any person neglecting or refusing to pay the money by him subscribed for the purposes of this act, it shall be lawful for the trustees to recover the same by warrant before a single magistrate, where the subscription doth not exceed twenty five shillings, and where it exceeds that sum, by motion in the court of the county where the person resides, provided he has ten days previous notice of such motion. The said trustees or a majority of them, shall as soon as may be, proceed to view the said river, and ascertain as nearly as they can, the highest part capable of navigation according to this act, and to contract and agree with any person, or persons, for clearing and improving the navigation of the said river, in such manner as the said trustees shall judge proper, and to remove all obstructions which in any manner injure the said navigation. The said trustees or a majority of them, shall have power to nominate and appoint, from time to time, one or more of their number, to be receiver or receivers of all money subscribed by virtue of this act, who shall give bond with sufficient security in the penalty of one thousand pounds, in the court of the county where he or they respectively reside, payable to the said trustees and their successors, for the time being, with condition that he or they, his or their heirs, executors, or administrators, at all times when required, will truly and faithfully account for all sums of money that shall come to his or their hands for the purposes of this act, and pay the same to such person or persons as the said trustees or a majority of them shall order and direct.

SECT. II. **AND** WHEREAS it may be necessary in some parts of the said river to straighten the same, by cutting away the bank or by a canal, and also to erect houses on the banks of the said river, for the use of toll gatherers.

SECT. III. **BE it therefore enacted**, That it shall and may be lawful for the said trustees, or a majority of them, to agree with the owners of any land through which the said canal is intended to pass, or on which any house shall be thought necessary to be erected for the purchase thereof, and in case of disagreement, or in case the owner thereof shall be a feme-covert, under age, non-compos, or out of the state, the like proceedings shall be had to estimate the value thereof by a jury, as are directed and prescribed by the act intituled "An act for opening and extending the navigation of *Potowmack* river," and such valuation shall be paid by the trustees to the owner of the said land, or his or her legal representative, and on payment thereof, the said land shall thenceforth be vested in the said trustees and their successors in fee, for the purpose of this act. The said trustees and their successors, or a majority of them, shall have power and authority to agree with any person or persons to cut such canals, and erect any works they may think necessary, for opening, improving, and extending the navigation of the said river, and out of the money arising from the subscriptions and tolls hereafter given, to pay for the same, and to repair and keep in order the said canals and other works, and to defray all incidental charges, and to appoint such toll-gatherers, managers, and servants, as they shall judge requisite, and to agree for and settle their respective wages or allowances, and settle and pass their accounts, and to make and establish such rules of proceeding, and to transact all other business for the purpose of carrying this act into execution.



SECT. IV. *AND be it further enacted*, That for and in consideration of the expence the subscribers will be at, not only in cutting canals or other labour for opening and extending the navigation of the said river, but in maintaining and keeping the same in repair, it shall and may be lawful for the said trustees and their successors at all times hereafter, to demand and receive at such place or places upon the said river, as they may think most convenient, for all commodities transported up or down the same, tolls not exceeding those imposed by the act intitled "An act for opening and extending the navigation of *Potowmack* river; and in case any person shall refuse or neglect to pay the tolls at the time of offering to pass the place appointed for the payment thereof, and previous to the vessels passing the same, the collectors of the said tolls may lawfully refuse passage to such vessel, and if any vessel shall pass without paying the said toll, then the said collectors may seize such vessel wherever found, and sell the same at auction, for ready money, which so far as is necessary, shall be applied towards paying the said tolls, and all expences of seizure and sale, and the balance if any, shall be paid to the owner, and the person having the direction of such vessel, shall be liable for such toll if the same is not paid by sale of such vessel.

SECT. V. THE profits arising from the said tolls, together with the works erected for opening and improving the navigation of the said river, shall be, and the same are hereby vested in the said Trustees, and their successors for ever; to, and for the use of the subscribers, and their heirs, as tenants in common, to be apportioned among them, according to the sums by them respectively subscribed and paid, and the same shall be deemed real estate, and be for ever exempted from payment of any tax, or imposition whatsoever. The said Trustees and their successors, shall be, and they are hereby declared to be incorporated, by the name and title of the *Mattapony Trustees*; and may sue, and be sued as such. In case of the death, removal, resignation, or incapacity of any of the said Trustees, it shall be lawful for the subscribers, or a majority of them, to elect other person, or persons, in the room of him or them, so dying, removing, or resigning; of the time and place for making such election, previous notice shall be given by advertisement, at the courthouse of the county of Caroline on two successive court days by the said Trustees. If a majority of the subscribers should fail to attend on the day appointed for electing a Trustee, the vacancy shall be supplied by those who do attend. The subscribers may vote either in person, or by proxy. It shall and may be lawful for every subscriber to transfer his interest in the said canals, works, and tolls, in the same manner, and under the like conditions and exceptions, as are prescribed by the said recited act. If any landholder on the said river, being resident thereon, if not the tenant or overseer, shall suffer any tree to be felled from his land, or the land of which he is a tenant, or resides on as an overseer into the said river, and therein to remain the space of twenty four hours, at any time after the navigation of the said river hath become practicable, every such landholder, tenant, or overseer, shall forfeit and pay the sum of forty shillings, to be recovered with costs, by information in any court of record, to the use of the person suing for the same. So much of all and every act and acts, as comes within the meaning of this act, is hereby repealed.

## C H A P. XLIV.

*An ACT for establishing several new FERRIES, and discontinuing one formerly established.*

[Passed the 16th of DECEMBER, 1788.]

SECTION I. *BE it enacted by the General Assembly*, That public ferries shall be constantly kept at the following places, and the rates for passing the same, as followeth: That is to say, from the land of *John Chenoweth*, in the county of *Hampshire*, across *Cape Capon* river, to the land of *James Largent*, on the opposite shore, and from the land of the said *James Largent*, across *Cape Capon* river, to the land of the said *John Chenoweth*, the price for a man four pence, and for a horse the same; from the land of *Dudley Evans*, across *Anongalia* river, to the land of *Rice Bullock*, on the opposite shore, the price for a man three pence, and for a horse the same; from the land of *David Chambers*, in the county of *Ohio*, across the *Ohio* river, to the opposite shore, the price for a man six pence, and for a horse the same; and from the land of *Elias Posten*, in the county of *Hampshire*, across *Cape Capon* river, to his land on the opposite shore, the price for a man four pence, and for a horse the same: And for the transportation of wheel-carriages, tobacco, cattle, and other beasts, at the place aforesaid, the ferry-keepers may demand and take the following rates, to wit: For every coach, chariot, or wagon, and the driver thereof, the same as for six horses; for every cart or four wheel chaise, and the driver, the same as for four horses; for every two wheel chaise or chair, as for two horses; for every hoghead of tobacco as for one horse; for every head of neat cattle, as for one horse; for every sheep, goat, or lamb, one fifth part of the ferriage for one horse; and for every hog, one fifth part of the ferriage for every horse, and no more.

SECT. II. IF any ferry-keeper shall demand or receive any greater rates than is hereby allowed for the ferriage or carriage of any thing, he shall for every such offence, forfeit and pay to the party grieved, the ferriage demanded or received, and ten shillings, to be recovered with costs before a Justice of the Peace of the county where the offence shall be committed.

SECT. III. *AND be it further enacted*, That the ferry heretofore established from the lands of *Joseph Cabell* in the county of *Buckingham*, across *Fluvanna* river, to the lands of *William Cabell*, on the opposite shore, shall be, and the same is hereby discontinued.

## C H A P. XLV.

*An ACT to regulate the suing out, and prosecuting WRITS of forcible entry and detainer*

[Passed the 16th of DECEMBER, 1788.]

SECTION I. *BE it enacted by the General Assembly*, That no warrant of forcible entry and detainer, or of forcible detainer, shall hereafter be granted, unless upon the oath or affirmation of the party praying the same.



SECT. II. *AND be it further enacted*, That the name, or names, of the person, or persons, so charged, shall be inserted in every such warrant; and the sheriff or other officer to whom the same shall be directed, shall give reasonable notice, of at least three days, to such person, or persons, of the time and place of taking the inquisition. And no jury shall be sworn to enquire of any forcible entry or detainer, where such previous notice hath not been given.

SECT. III. *AND be it further enacted*, That such Justices, or Justice of the Peace, as by reason of any law now in force within this Commonwealth, are authorised and enabled, upon enquiry, to give restitution, or possession, unto tenants of any estate of freehold, of their lands or tenements, which shall be entered upon with force; shall, by reason of such law, have the like and the same authority and ability from henceforth, upon indictment of such forcible entries, or such forcible withholding, before them duly found, to give like restitution of possession unto tenants for term of years, or tenants by elegit of lands or tenements by them so holden, which shall be entered upon by force, or holden from them by force.

## C H A P. XLVI.

*An ACT for further amending an Act, intituled, "An Act for establishing a DISTRICT COURT on the Western Waters."*

[Passed the 3d of DECEMBER, 1788.]

SECTION I. **W**HEREAS the Judges, and other officers of the Supreme Court for the District of Kentucky, are subjected to many inconveniencies, by being obliged to make personal applications to the Clerks of the several Courts of the District for the payment of the salaries accruing to them: For remedy thereof, *BE it enacted by the General Assembly*, that the Governor, with the advice of Council, shall appoint and commission some person to be a Receiver, who shall reside at or near the place of holding the said Court, and on entering into bond, payable to the Governor, or his successors, for the use of the Commonwealth, and with sufficient security, to be approved of by the said Court, in the sum of five thousand pounds, conditioned for the faithful discharge of his trust, shall be vested with the joint power and authority which the Public Auditor and Treasurer are now by law possessed of, for settling with the said Clerks and giving them receipts for all public monies for which they are accountable by law, and also the power of the Solicitor, to move the said Supreme Court for judgment and execution against such of them as shall be delinquent.

SECT. II. *AND be it further enacted*, That the said Receiver shall, at every session of the said Court, render an account to the then sitting Judges, of all the monies he shall have received in consequence of his appointment; out of which he shall be entitled to a commission of four per centum for his trouble, and the balance he shall pay on demand to the Judges, and other officers of the said Supreme Court, in discharge of the salaries, or arrears of salaries, and stipends, which may be due to them, or either of them, upon producing to him such certificates thereof as are required by the act, intituled, "*An act to amend an act for establishing a District Court on the Western Waters*," taking receipts thereon as the Clerks in the said act are directed to take; which certificates, with a copy of his accounts, after having been examined, and attested to be true, by the said Judges, he shall transmit, at least, annually, to the Auditor of Public Accounts, and at the same time pay into the public treasury the surplus of this fund, or be liable to prosecution therefor, in the same manner, and be subject to the same penalties, as delinquent Clerks of Courts are liable to. PROVIDED HOWEVER, if it shall at any time appear to the said Judges, that the fund in the hands of the said Receiver, is inadequate to the purposes for which it is allotted, they shall direct the said Receiver to make a dividend thereof to each claimant, proportionate to the amount of the certificates, they shall respectively produce to him; and the several balances that may then remain due to them, shall be certified by the said Receiver, and countersigned by one of the said Judges, on which the holder shall be entitled to payment out of the funds provided for the discharge of the salaries of the other civil officers of the State.

SECT. III. *AND be it further enacted*, That the said Judges are hereby authorised and empowered, to appoint a Jailor, and make him such allowance for his services as they shall think reasonable, and also to make an allowance for the past services of the person who hath acted as Jailor to the said Court.

SECT. IV. SO much of all and every act or acts of Assembly, as comes within the purview of this act, shall be, and the same is hereby, repealed.

## C H A P. XLVII.

*An ACT for giving certain POWERS to the Trustees of the Property of the PROTESTANT EPISCOPAL CHURCH.*

[Passed the 17th of DECEMBER, 1788.]

**W**HEREAS it has been represented to the present General Assembly, that some doubts have arisen, whether the Trustees appointed in the several parishes within this Commonwealth, to take care of, and manage the property belonging to, the Protestant Episcopal Church, have a power to act as successors to the former vestries in the management of the property vested in them for charitable and other purposes: *BE it therefore enacted by the General Assembly*, that the said Trustees, and their successors, shall, to all intents and purposes, be considered as successors to the former vestries, and shall have the same power of holding and managing all the property formerly vested in them, whether for charitable purposes by private donation, or in trust for the use of individuals.

## C H A P. XLVIII.

*An ACT for establishing an INSPECTION of TOBACCO on the Lots of Alexander and Peterfield Trent, in the Town of Manchester.*

[Passed the 19th of DECEMBER, 1788.]

SECTION I. *BE it enacted by the General Assembly*, That an Inspection of Tobacco shall be, and the same is hereby, established on the lots of *Alexander and Peterfield Trent*, in the town of *Manchester*, distinguished



distinguished in the plan of the said town by the numbers, "two hundred and nine," "two hundred and ten," "two hundred and twenty-one," and "two hundred and twenty-two." The said *Alexander and Peterfield Trent* being willing to build proper Warehouses for the reception of tobacco, at their own expence, to be called and known by the name of *Trent's Warehouse*.

SECT. II. THERE shall be allowed and paid annually, to each of the Inspectors at the said Warehouse, the sum of sixty pounds for their salary.

SECT. III. THE appointment of Inspectors, and all other regulations respecting the said Warehouse, shall be the same as directed by law for other inspections.

SECT. IV. *PROVIDED ALWAYS, and be it further enacted*, That the Warehouses hereby directed to be established shall be built of brick or stone, and covered with slate or tile, with gates of iron; and that no tobacco shall be received for inspection at the said Warehouse, nor any Inspectors appointed for the same, until the Court of *Chesterfield* county shall be of opinion, and enter the same of record, that the proprietors have built the said Warehouses according to the directions of this act, and that they are sufficient to contain at least two-thirds of the tobacco that may be brought to the said inspection in any one year.

SECT. V. IF the quantity of tobacco inspected at the said Warehouses shall not be sufficient to pay the usual charges and Inspectors salaries, the deficiency shall not be paid by the public:

## C H A P. XLIX.

### *An ACT for preventing IMPOSITIONS in the Collection of TAXES.*

[Passed the 22d of DECEMBER, 1788.]

SECTION I. **W**HEREAS the frequent impositions which have been practised on the citizens of this Commonwealth, in the collection of the taxes, have rendered it necessary to confine the payment thereof to specie, and warrants equivalent thereto, but such an arrangement cannot be made without reducing the amount of the said taxes, in proportion to the losses sustained by the public, by receiving tobacco at prices exceeding the real value: *BE it enacted by the General Assembly*, that all taxes which became due under any law of revenue, whether on lands, slaves, or other property, on the first day of *November*, in the year one thousand seven hundred and eighty-eight, and all taxes which have arisen, or shall arise, after that day, under the act, intituled, "*An act imposing new taxes*," shall be reduced one-third below the amount of all such taxes, as fixed by the laws aforesaid, or any of them. And all Sheriffs, Collectors, Clerks, and Public Officers, are required to demand and receive two-thirds of the amount of the said taxes respectively, and no more; and where more than two-thirds hath been received, to restore the surplus thereof to the person or persons entitled thereto. *PROVIDED*, that nothing herein contained, shall be construed to extend to duties on imports and exports; to the taxes imposed by an act, intituled, "*An act to explain and amend the act to levy certain taxes in aid of the public revenue*;" to the fees of the Register's office; or to any tax on tobacco, billiard tables, or ordinary licences. No distress shall be made for any tax which became due on the first day of *November*, one thousand seven hundred and eighty-eight, until the first of *May*, one thousand seven hundred and eighty-nine. The said taxes shall be accounted for, and paid, in the same manner, and under the same penalties, as the laws aforesaid prescribe, except that the revenue taxes may be accounted for and paid into the public treasury at any time before the first day of *September*, one thousand seven hundred and eighty-nine.

SECT. II. SO much of every act, as comes within the purview of this act, is hereby repealed.

## C H A P. L.

### *An ACT concerning the PRACTISE of ATTORNIES.*

[Passed the 24th of DECEMBER, 1788.]

SECTION I. *BE it enacted by the General Assembly*, That the Attorney, who shall prosecute any suit in an Inferior Court, in which an appeal may be taken, shall not be suffered to appear or prosecute such appeal in any Superior Court, to which the same may be carried or removed; and any Attorney, who shall appear to, or prosecute such appeal in any Superior Court, having been employed therein in the Inferior Court, shall forfeit the sum of twenty pounds, to be recovered with costs, by action of debt, or information, in any Court of Record within this Commonwealth; the whole penalty to the use of the person who will sue or prosecute for the same.

SECT. II. *AND be it further enacted*, That the Lawyers practising in the General Court within the District of *Kentucky*, may demand and receive for any suit at common law, other than the actions hereafter mentioned, a fee of thirty shillings; for any Chancery suit, or real, mixed, or personal action, where the title or bound of lands shall or may come in question, three pounds.

SECT. III. EVERY Lawyer within the said District, receiving or demanding any greater fee, or other reward, for any of the above services, shall forfeit, and pay, twenty pounds for every offence; one half to the informer, and the other moiety to the use of the Commonwealth, to be recovered with costs, by action of debt, or information, in any Court of Record; any law to the contrary thereof notwithstanding.

## C H A P. LI.

### *An ACT to regulate SURVEYORS FEES, in certain cases.*

[Passed the 25th of DECEMBER, 1788.]

**W**HEREAS it hath been represented to this present General Assembly, that no particular mode hath been prescribed upon the division of any county within this Commonwealth, for the Surveyor of the new county to obtain the entries of lands within the same, in consequence of which many disputes have arisen: For

remedy



remedy whereof, *Be it enacted*, that the Surveyor, or Surveyors, of any county or counties, from which a new county hath been taken during the present session of Assembly, or hereafter shall be taken, shall, within one month after such division takes place, make out, and on application, deliver to the Surveyor of the new county, attested copies of all entries made upon lands within such new county, on his books, and not surveyed, together with the warrants upon which they were founded; for which service he shall receive three pence for every such attested copy, paid by the Surveyor of the new county, upon receipt of said attested copies. And in case any Surveyor shall neglect or refuse to make out, or to deliver, such attested copies of entries, within the time aforesaid, or at the expiration of said time, upon the application of the Surveyor of the new county, he shall forfeit, and pay, the sum of fifty pounds, to be recovered by action of debt, or information, in any Court of Record, by any person who will sue for the same; any law to the contrary notwithstanding.

## C H A P. LII.

*An ACT concerning the ELECTION of MEMBERS of the General Assembly.*

[Passed the 25th of DECEMBER, 1788.]

SECTION I. **W**HEREAS the mode of contesting disputed elections hath heretofore been found to be attended with great inconvenience and delay, *BE it enacted by the General Assembly*, that any person intending to contest the election of any person returned to serve as a Senator or Delegate, from any county, shall, within twenty days after the assembling of the Sheriffs to make a return in the former case, or within ten days after the day of election in the latter, give to the person returned to serve notice thereof in writing, and moreover shall deliver to him at the same time, a list of those persons to whose votes he hath objection, distinguishing his several objections against the names of the voters; and where he hath any other objection to the legality of the election, or the eligibility of the person returned, as aforesaid, he shall, in like manner, give notice thereof, distinguishing his particular objections; and the person returned as aforesaid shall, within twenty days after receiving such notice, deliver the like lists on his part. Where the contest is for the office of a Senator, any one or more of the Courts in the Senatorial District, or where it is for the office of a Delegate, the Court of the county, shall, upon the application of either party, appoint five Commissioners to take the depositions of such witnesses as shall be produced to them, any three of which said Commissioners shall be sufficient for the purpose. But no Commissioner shall act without having first taken, before some Justice, an oath to act impartially. Reasonable notice, in writing, of the time and place of taking such depositions, shall be given, by either party, to the other. Notice in any of the cases before mentioned, as well as the lists, left with his wife, or any other free person over the age of twenty-one years, belonging to his family, other than a negro or mulatto, or, in case of their absence, then at the dwelling-house, shall be deemed sufficient. The depositions shall be certified by the Commissioners taking the same, sealed up and sent by them to the Clerk of that House of which the person was returned a member, without delay.

SECT. II. COMPLAINT shall be lodged against a member within ten days after the meeting of the Assembly, where the contested election shall have been holden at the stated annual period, or within twenty days after the election, where such election shall have been holden in consequence of an intermediate vacancy; and the depositions taken as aforesaid, shall be, by the Clerk of each House, respectively, delivered to the Speaker thereof, to be committed with the petition of the party complaining, and shall be received and read as evidence upon the hearing thereof; subject, however, to the exceptions of the opposite party.

SECT. III. SUBPŒNAS for witnesses shall be issued by the Clerks of the County Courts upon the application of either party. And the witnesses shall be entitled to the same allowance, be privileged from arrests, and be subject to the like penalties, as witnesses attending the County Courts.

SECT. IV. IF any person shall vote a second time, at any election, for members of the General Assembly, he shall forfeit and pay ten pounds, to be recovered, with costs of suit, in any Court of Record, by action of debt, bill, plaint, or information, to the use of the person who will sue for the same.

SECT. V. *AND be it further enacted*, That the Sheriff conducting the election in any county in the District of Kentucky, shall, at the request of any one or more of the candidates, adjourn the election until the next day, although the electors who appear be not too numerous to be polled before sun-setting, or there be no rain, or rise of water courses.

SECT. VI. *AND be it further enacted*, That the several County Courts shall be empowered, for good cause to them shewn, to remit any penalty incurred by a freeholder or not having given his vote at any election for a Delegate or Senator, according to law.

SECT. VII. SO much of every act and acts, as comes within the purview of this act, shall be, and the same is hereby, repealed.

## C H A P. LIII.

*An A C T for amending the Acts concerning the P O O R.*

[Passed the 25th of DECEMBER, 1788.]

SECTION I. **F**OR the amendment of the several acts concerning the poor, *BE it enacted by the General Assembly*, That whosoever any former Church-Warden, who hath not settled his accounts as such, and paid the balance due from him, is already dead, or shall hereafter die, before such settlement and payment, the executors and administrators of such decedent shall be liable to the same recovery as the said Church-Warden would have been liable to in his lifetime: Saving nevertheless, to the said executors and administrators, the benefit of all pleas to which they may by law be entitled.

SECT. II. IF any person appointed to superintend an election of Overseers of the Poor, shall refuse or neglect to serve, without reasonable excuse, he shall forfeit and pay for every such refusal and neglect, the sum of ten pounds, to be recovered for the use of the poor of the county in any Court of Record, by action of debt, or an information, founded on this act, together with costs: And in case it shall so happen that the person appointed



pointed to superintend the election, shall neglect to attend as above recited, in that case the County Court shall appoint an Overseer at the next Court held for such County.

SECT. III. IT shall be the duty of the Sheriff of every county, and of the Serjeant of any city or borough, if appointed by the Overseers of the Poor to collect any poor rate, to collect and account for the same, and to be liable to all things required and imposed on a collector of such rate by law. Any Sheriff or Serjeant refusing to undertake the said collection, shall forfeit, and pay, the sum of fifty pounds, to be recovered in manner aforesaid, for the use aforesaid.

SECT. IV. *AND be it further enacted,* That the trustees of any religious society, shall have full power and authority to prosecute all suits heretofore instituted and now depending, upon bond or otherwise, for any arrearages due to the different parishes within this Commonwealth.

## C H A P. LIV.

*An ACT concerning the IMPORTATION of SLAVES, into the District of Kentucky.*

[Passed the 26th of DECEMBER, 1788.]

SECTION I. **W**HEREAS many persons who have removed from some other parts of the United States, into the District of *Kentucky*, and have become citizens of this Commonwealth, have failed within ten days after their removal into the same, to take the oath, or oaths, prescribed by two acts of Assembly, the one, intituled, "*An act for preventing the further importation of slaves,*" the other, intituled, "*An act concerning slaves,*" to be taken on the importation of the same, although they might with great truth have taken such oaths: *AND WHEREAS* such failure hath been chiefly, if not altogether, owing to the impracticability of complying with the said acts: *BE it enacted by the General Assembly,* that such persons as have already removed, or shall remove before the passing of this act, from any part of the United States, into the District of *Kentucky*, may take the oaths aforesaid, on or before the first day of *May*, in the year of our Lord, one thousand seven hundred and eighty-nine, and the taking thereof shall be as effectual to award the pecuniary penalties of the said acts, as if it had been within ten days after the removal of such person.

SECT. II. *ALL* persons who shall remove to the said district, from any part of the United States, after the passing of this act, may take the oath aforesaid within sixty days after such removal; any law to the contrary notwithstanding. *PROVIDED NEVERTHELESS*, that this act shall not be construed to affect the right of any slave or slaves, or of any person or persons, entitled to freedom: But as to all persons who may take the said oaths, on or before the said first day of *May*, the operation of the said acts, as far as they relate to the freedom of any slave removed, or which before the passing of this act may be removed into the District of *Kentucky*, shall be, and is hereby, suspended for three years; and no suit, or suits, shall be instituted or proceeded on in any Court of this Commonwealth for the recovery of the freedom of any such slave, before the expiration of the said term of three years. *PROVIDED HOWEVER*, that the suspension aforesaid, shall not be construed to extend to, or affect, the case of any slave or slaves, or of any person or persons, entitled to freedom, who have before the passing of this act instituted a suit or suits for the same, in any Court of this Commonwealth, nor to any such case in which an adjudication, or adjudications, shall have been had thereupon.

## C H A P. LV.

*An ACT concerning the CREDENTIALS of the SENATORS of this COMMONWEALTH in CONGRESS.*

[Passed the 22d of DECEMBER, 1788.]

SECTION I. *BE it enacted by the General Assembly,* That so soon as any election shall be made of Senators for this Commonwealth, in pursuance of the Constitution of the United States of America, the Clerk of the House of Delegates shall notify the same to the Governor; who shall cause a Credential to be made out, and the seal of the Commonwealth affixed thereto, shall sign the same, and cause it to be delivered to each Senator; which Credential shall be in the words following:

"*VIRGINIA, to wit: The Legislature of this Commonwealth, on the \_\_\_\_\_ day of \_\_\_\_\_, one thousand seven hundred and \_\_\_\_\_, having, in pursuance of the Constitution for the United States of America, chosen \_\_\_\_\_, Esquire, a Senator; I, \_\_\_\_\_, being Governor or Chief Magistrate of the Commonwealth, do hereby certify the same to the Senate of the said United States. Given under my hand, and the seal of the Commonwealth, this \_\_\_\_\_ day of \_\_\_\_\_, one thousand seven hundred and \_\_\_\_\_.*"

A like notification shall be made, and a like Credential shall be delivered to *Richard Henry Lee* and *William Grayson*, Esquires, respectively, who have been chosen Senators for this Commonwealth.

SECT. II. *WHENEVER* the Executive shall, by virtue of the said Constitution, make a temporary appointment of a Senator, a Credential shall be prepared with the forms and solemnities aforesaid, and shall be delivered to such temporary Senator, in the words following:

"*VIRGINIA, to wit: A. B. Esquire, who was duly chosen a Senator for this Commonwealth, in pursuance of the Constitution for the United States of America, having died (resigned, or otherwise, as the case may be) during the recess of the Legislature of the Commonwealth, I, \_\_\_\_\_, being Governor or Chief Magistrate of the Commonwealth, have therefore thought fit, by and with the advice and consent of the Privy Council, or Council of State, and by virtue of the said Constitution, to appoint \_\_\_\_\_, Esquire, to be and act as a Senator for the Commonwealth, until the next meeting of the Legislature thereof.*" Given under my hand, and the seal of the Commonwealth, this \_\_\_\_\_ day of \_\_\_\_\_, one thousand seven hundred and \_\_\_\_\_."



C H A P. LVI.

An ACT concerning the PUBLIC HOSPITAL in the CITY of WILLIAMSBURG.

[Passed the 25th of DECEMBER, 1788]

SECTION I. **B**E it enacted by the General Assembly, That from and after the passing of this act, a Court of Directors may at any time be holden for the public hospital, in the city of *Williamsburg*, without the President, if he shall fail to attend, and the eldest member present shall act as President, pro tempore. Any director who shall remove to the distance of twenty miles, or upwards from the said city, shall be considered as having vacated his office. Vacancies in the Court of Directors may be supplied by the Executive. If upon the examination of any person charged with being a lunatic or idiot, or otherwise insane, the said court shall be of opinion that he or she ought not to be confined, it shall be lawful for the said court, forthwith to discharge him or her. Every act, coming within the purview of this act, is hereby repealed.

C H A P. LVII.

An ACT appointing TRUSTEES for PHILIP JOHNSON, Gentleman, and his children.

[Passed the 25th of DECEMBER, 1788.]

SECTION I. **W**HEREAS all the trustees appointed by the act intituled "An act to vest certain lands whereof *John Robinson*, Esquire, died seized in trust for *Philip Johnson*, Gentleman, and his children in trustees for the purposes therein mentioned, are now dead, and *Robert Carter Nicholas*, Esquire, deceased, is represented to have been the sole acting trustee: BE it therefore enacted by the General Assembly, That *Benjamin Harrison*, *Samuel Griffin*, *John Walker*, *William Walker*, and *William Norvell*, Gentlemen, be appointed trustees, who, or a majority of whom, may and shall execute and perform all things remaining to be executed and performed by the trustees under the said act. PROVIDED always, that nothing herein contained shall be construed to prejudice, or in any manner to affect the rights of the said trustees, or of their executors or administrators, or of any of them; but the same shall remain in the same condition as if this act had never been made.

C H A P. LVIII.

An ACT giving further time to the purchasers of lots in the town of MOORFIELD to build thereon.

[Passed the 23d of DECEMBER, 1788.]

SECTION I. **W**HEREAS the purchasers of lots in the town of *Moorfield*, in the county of *Hardy*, from the difficulty of procuring materials have not been able to build on their said lots within the time prescribed by law, BE it enacted, That the further time of three years, from and after the passing of this act, shall be allowed the purchasers of lots in the said town to build upon and save the same.

C H A P. LIX.

An ACT for establishing an INSPECTION of TOBACCO on the lands of Abraham Shepherd, in the county of Berkeley.

[Passed the 29th of NOVEMBER, 1788.]

SECTION I. **W**HEREAS it is represented that the establishing of an inspection of tobacco on the lands of *Abraham Shepherd*, near the town of *Mecklenburg*, on *Potowmack* river in the county of *Berkeley*, would be of public utility, and that the proprietor of the said land is willing to erect the houses necessary for that purpose at his own expence: BE it therefore enacted by the General Assembly, That an inspection of tobacco shall be, and the same is hereby established on the lands of the said *Abraham Shepherd*, near the said town of *Mecklenburg*, in the county of *Berkeley*, to be called and known by the name of *Mecklenburg* warehouse.

SECT. II. THE appointment of inspectors and all other regulations respecting the warehouse shall be the same as is provided for by law for other inspections, so far as the same do not contravene this act. All tobacco inspected at the said warehouse, shall be subject to the same duties and imposts, and be collected and accounted for by the inspectors, in the same manner, and under the like penalties as directed and prescribed by law for other warehouses.

SECT. III. THERE shall be allowed and paid annually to each of the inspectors at the said warehouse, the sum of thirty pounds for their salary: PROVIDED always, That if the quantity of tobacco inspected at the said warehouse shall not be sufficient to pay the usual charges and the inspectors salaries, the deficiency shall not be paid by the public. The said *Abraham Shepherd*, shall, on or before the first day of *May* next, give bond with sufficient security, in the penalty of two thousand pounds, in the court of the said county, with condition that he will not build, or suffer to be built, any house with a fire place therein, within one hundred yards of the said warehouse.



C H A P. LX.

*An ACT for establishing a TOWN in the county of NELSON.*

[*Passed the 2d of DECEMBER, 1788.*]

SECTION I. **B**E it enacted by the General Assembly, That one hundred acres of land, lying at a place called Baird's town, in the county of Nelson, the property of David Baird, and John C. Owing, to include the lots which may have been laid off, shall be, and the same are hereby vested in Isaac Morrison, Walter Beall, James Baird, John Reid, Andrew Hynes, Philip Philips, John Caldwell, Gabriel Cox, James Adams, James Morrison, and Michael Campbell, gentlemen, trustees, to be by them, or a majority of them, laid out into lots of half an acre each, with convenient streets, and established a town by the name of Baird's town; so soon as the said one hundred acres of land, shall be so laid off into lots and streets, the said trustees or a majority of them, shall proceed to sell the said lots at public auction, for the best price that can be had, the time and place of which sale, to be previously advertised for two months, at the respective courthouse doors of the counties of Jefferson and Nelson, the purchasers to hold the said lots respectively, subject to the condition of building on each, a dwelling house sixteen feet square at least, with a brick or stone chimney, to be finished fit for habitation, within three years from the day of sale, and the said trustees, or a majority of them, shall convey the said lots to the purchasers in fee, subject to the conditions aforesaid, and pay the money arising from the sale thereof, to the said David Baird, and John C. Owing, or their respective legal representatives. The said trustees, or the major part of them, shall have power from time to time, to settle and determine all disputes concerning the bounds of the said lots, and establish such rules and orders for the regular building of houses thereon, as to them shall seem most convenient, and in case of the death, resignation, or other legal disability of any of the said trustees, it shall be lawful for the other trustees to supply such vacancy, and the trustees so elected, shall be vested with the same power and authority, as those particularly named in this act. The purchasers of the lots in the said town, so soon as they shall have built upon and saved the same according to the conditions of their respective deeds, shall then be entitled to, and have and enjoy all the rights, privileges, and immunities, which the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy. If the purchaser of any lot shall fail to build thereon within the time before limited, the said trustees, or a majority of them, may thereupon enter into such lot, and sell the same again, and apply the money for the benefit of the said town: *PROVIDED* always, that nothing herein contained, shall be construed or taken to interfere with, or affect the rights or claims of any person to lots in the said town, who have built or made improvements thereon, under agreements or contracts with the proprietors or their agents; nor shall such lots be sold by the said trustees.

C H A P. LXI.

*An ACT to empower the Trustees of the parish of NOTTOWAY, in the county of AMELIA, to sell the GLEBE of the said parish, and to lay out the money in purchasing a more convenient GLEBE.*

[*Passed the 24th of DECEMBER, 1788.*]

SECTION I. **W**HEREAS it is represented to this present General Assembly, that the glebe lands in the parish of Nottoway, in the county of Amelia, are for the most part worn out, and not stocked with timber sufficient to keep up the necessary repairs, and that the houses thereon are in a ruinous situation, and that it would be very advantageous to the inhabitants of the said parish, if the trustees thereof were empowered to dispose of the said glebe, and to lay out the money arising from the sale thereof, in purchasing other lands for a glebe. *BE it therefore enacted by the General Assembly,* That the said glebe lands, with the appurtenances be, and the same are hereby vested in the trustees of the said parish, in trust: *NEVERTHELESS,* that the said trustees, or the greater part of them, shall by deed, or deeds of bargain and sale, sell and convey the said glebe, with the appurtenances, for the best price that can be got, to any person, or persons who shall be willing to purchase the same; to hold to such purchaser or purchasers, his or their heirs and assigns forever.

SECT. II. *AND be it further enacted,* That the money arising by the sale of the said glebe, shall be by the said trustees laid out, and applied towards purchasing a more convenient glebe, for the use and benefit of the inhabitants of the said parish.

C H A P. LXII.

*An ACT establishing several new FERRIES in the county of OHIO.*

[*Passed the 26th of DECEMBER, 1788.*]

SECTION I. **B**E it enacted by the General Assembly, That public ferries shall be constantly kept at the following places, and the rates for passing the same as followeth, that is to say: From the land of George Cox, in the county of Ohio, across Ohio river, to the opposite shore, the price for a man sixpence, and for a horse the same; from the land of John Jones, in the county of Ohio, across Ohio river, to the opposite shore, the price for a man sixpence, and for a horse the same; from the land of Van Swearingen, in the county of Ohio, across Ohio river, to the opposite shore, the price for a man sixpence, and for a horse the same; from the land of Absalom Wells, in the county of Ohio, across Ohio river, to the opposite shore, the price for a man sixpence, and for a horse the same; from the land of Reason Pomphrey, in the county of Ohio, across Ohio river, to the opposite shore, the price for a man sixpence, and for a horse the same; and from the land of Jonas Menses, in the said



said county of *Ohio*, across *Ohio* river to the opposite shore, the price for a man sixpence; and for a horse the same. And for the transportation of wheel-carriages, tobacco, cattle, and other beasts, at the places aforesaid, the ferry-keepers may demand and take the following rates, that is to say: For every coach, chariot, or waggon, and the driver thereof, the same as for six horses; for every cart, or four wheel chaise, and the driver thereof, the same as for four horses; for every two wheel chaise, or chair, the same as for two horses; for every hoghead of tobacco, as for one horse; for every head of neat cattle, as for one horse; for every sheep, goat, or lamb, one fifth part of the ferriage for one horse, and for every hog, one fourth part of the ferriage for one horse, and no more. If the ferry keeper at any of the said places shall presume to demand or receive from any person, or persons, greater rates than is hereby allowed for the carriage or ferriage of any thing, he shall for every such offence, forfeit and pay to the party grieved, the ferriages demanded or received, and ten shillings, to be recovered with costs before a Justice of Peace of the county where such offence shall be committed.

## C H A P. LXIII.

*An ACT allowing the CITY of RICHMOND, a REPRESENTATIVE in the HOUSE of DELEGATES.*

[*Passed the 22d of DECEMBER, 1788.*]

**SECTION I.** **W**HEREAS it is provided by the Constitution of Government, that the privilege of representation in the House of Delegates, may be extended to such cities and boroughs, as should thereafter be allowed particular representation in the Legislature: AND WHEREAS, application hath been made to the present General Assembly, by the inhabitants of the city of *Richmond*, to extend to them this high privilege, which it is judged reasonable and expedient so to do: *BE it therefore enacted by the General Assembly*, That the freeholders of the said city, shall be entitled to assemble at the courthouse, or other place of holding courts in the said city, annually, on their court day, in the month of *April*, and then and there elect one discreet and proper person, being a freeholder, and who shall have bona fide resided within the said city for twelve months, last preceding, as a Delegate to represent the said city in the House of Delegates. The said election shall be held and conducted by the Serjeant of the said city, for the time being, under the rules, restrictions, and penalties prescribed by law, in the election of members to the General Assembly: *PROVIDED always*, that no freeholder of the said city shall be entitled to vote in right of such freehold, at any county election of Delegates to the General Assembly.

## C H A P. LXIV.

*An ACT for dividing the county of AMELIA.*

[*Passed the 22d of DECEMBER, 1788.*]

**SECTION I.** **B***E it enacted by the General Assembly*, That from and after the first day of *May* next, the county of *Amelia* shall be divided into two distinct counties, that is to say, all that part of the said county lying south of a line to begin at a place called *Well's bridge*, on *Namozene* creek, which divides the said county, from the county of *Dinwiddie*, thence running through the said county of *Amelia*, so as to strike the line of *Prince Edward* county, five miles west of a place called *Ward's ford*, on *Appamattox* river, shall be one distinct county, and called and known by the name of *Nottoway*, and the residue of the said county shall retain the name of *Amelia*. A court for the said county of *Nottoway*, shall be held by the Justices thereof, on the first *Thursday* in every month, after the said division shall take place, in such manner as is provided by law for other counties, and shall be by their commissions directed. The Justices to be named in the commission of the peace for the said county of *Nottoway*, shall meet at the new house of *Peter Stainback*, in the said county, upon the first court day after the said division shall take place, and having taken the oaths prescribed by law, and administered the oath of office to, and taken bond of the sheriff according to law, proceed to appoint and qualify a clerk, and fix upon a place for holding courts in the said county, at, or as near the centre thereof, as the situation and convenience will admit of, and thenceforth the said court shall proceed to erect the necessary public buildings at such place, and until such buildings be compleated, to appoint any place for holding courts, as they may think proper. *PROVIDED always*, that the appointment of a place for holding courts, and of a clerk, shall not be made unless a majority of the Justices of the said county be present; where such majority shall have been prevented from attending by bad weather, or their being at the time out of the county, in such cases the appointment shall be postponed until some court day, when a majority shall be present. The Governor, with the advice of the Council, shall appoint a person to be first sheriff of the said county, who shall continue in office during the term, and upon the same conditions, as by law appointed for other sheriffs. It shall be lawful for the sheriff of the said county of *Amelia*, to collect and make distress for any public dues, or officers fees, which shall remain unpaid by the inhabitants thereof, at the time such division shall take place, and shall be accountable for the same, in like manner as if this act had not been made. And that the court of the said county of *Amelia*, shall have jurisdiction of all actions and suits depending before them, at the time of the said division, and shall try and determine the same, issue process, and award execution thereon. In all elections of a Senator the said county of *Nottoway* shall be of the same district, as the said county of *Amelia*. The court of the said county of *Amelia*, shall, as soon as may be, after the said division, fix on a place for holding courts, at, or as near the centre thereof, as the situation and convenience will admit of; and thenceforth proceed to erect the necessary public buildings at such place, and until such buildings be compleated, to hold courts at any place they may think proper.

C H A P.



*An ACT to amend an act intituled "An act appointing COMMISSIONERS to receive subscriptions for opening a ROAD from the FALLS of the GREAT KANAWA, to LEXINGTON in FAYETTE county, and for appropriating certain PUBLIC TAXES to open the same.*

[Passed the 26th of DECEMBER, 1788.]

SECTION I. **W**HEREAS the time given by law to receive subscriptions for the purpose of opening a road from the falls of the *Kanawa*, to *Lexington* in *Kentucky*, hath been found too short for the purpose thereof, *BE it enacted by the General Assembly*, that the said act intituled "An act for appointing Commissioners to receive subscriptions for opening the said road, shall continue and be in force until the thirty first day of *December*, in the year one thousand seven hundred and ninety one. *AND be it further enacted*; That *Levi Todd, James Trotter, Henry Lee, John McDowell, John Hawkins, James Garrard, George Clendinen, William Clendinen, and Henry Banks*, gentlemen, be, and they are hereby appointed Commissioners, to receive subscriptions for the purpose aforesaid, who shall and may receive subscriptions agreeable to the mode and for the purposes therein prescribed. *AND* whereas it is represented to the present General Assembly, that the great public utility which will arise from opening a communication with the *Kentucky* district by means of the aforesaid road, will be considerably retarded and prevented by the slow and uncertain means of receiving a sufficient fund by subscription. And whereas considerable taxes have become due from the proprietors of the lands through which the said road will pass, when it was impossible for them to derive any benefit therefrom, from their remote situation and the frequent inroads of hostile *Indians*, and it is just that the amount of the said taxes should be applied in such manner as to inhanse the value of said lands:

SECT. II. *BE it therefore enacted by the General Assembly*, That *Levi Todd, James Trotter, Henry Lee, John McDowell, John Hawkings, and James Garrard*, gentlemen, or a majority of them, shall be, and they are hereby appointed commissioners for opening a road from the town of *Lexington*, in the county of *Fayette*, to the river known by the name of the *Great Sandy*, to the most convenient part thereof below the great forks. The said commissioners shall in the court of the counties in which they respectively reside, take an oath for the due execution of the trust hereby reposed in them, and shall moreover enter into bond, with security, in the penalty of one thousand pounds, payable to the Governor and his successors for the use of the commonwealth, with condition that they will faithfully discharge the said trust. So soon as they, or a majority of them, have taken the said oaths and entered into the said bonds, they shall appoint a time and place of meeting, giving two months previous notice thereof in the *Kentucky* gazette, and shall then and there publicly let to the lowest bidder, the opening the said road from *Lexington* to *Great Sandy* river: they shall take a bond in a sufficient penalty, with good security from the undertaker, that the said road shall be compleatly opened fit for the passage of waggons, within three years from the date of the said bond.

SECT. V. *AND be it further enacted*, That *George Clendinen, Henry Banks, and William Clendinen*, gentlemen, or a majority of them, shall be, and they are hereby appointed Commissioners for opening a road, from the *Great Kanawa* river to the *Great Sandy* river, beginning at the house of *William Clendinen*, in the county of *Kanawa*, and running to the place where the road from *Lexington* to the *Great Sandy* river terminates; having taken the same oaths, and entered into bond in the like manner, as the Commissioners before mentioned, they shall appoint a time and place of meeting, giving previous notice thereof for two months, at the doors of the court-houses of the counties of *Greenbrier* and *Kanawa*, and shall then and there let publicly, to the lowest bidder, the opening of the said road, from the *Great Kanawa* river to the *Great Sandy* river, and shall take bonds and security of the undertaker, in like manner as is herein before directed to be taken of the undertakers of the road from *Lexington* to the *Great Sandy* river. The undertakers of the road from *Lexington*, shall have power to contract with any person within the counties of *Fayette* and *Bourbon*, and the undertakers of the road from the *Great Kanawa* river, shall have power to contract with any person within the county of *Kanawa* for personal labour, supplies of money, or other things necessary for carrying on the said undertakings, and shall give certificates to the persons so contributing, for the amount of what has been furnished by them, which certificates, when countersigned by one or more of the said commissioners, the sheriffs of the said counties shall receive in payment of taxes due from the holders thereof, and they shall be allowed a credit therefor, in the settlement of their accounts for any taxes now due, or hereafter to become due, from any of the said counties: *PROVIDED* always, that the certificates granted by the undertaker and commissioners of the road, from *Lexington* to *Great Sandy* river, shall not exceed the sum of three thousand pounds, and those granted by the undertaker and commissioners of the road from the *Great Kanawa* river, to the *Great Sandy* river, shall not exceed the sum of one thousand five hundred pounds. The sheriffs authorised by law to distrain for taxes now due, or which may become due in the said counties, shall furnish the said commissioners respectively, with an exact account thereof, and they shall not proceed to collect the same, until directed by the said commissioners in manner herein after directed, except that they shall receive from persons tendering the same, any of the certificates granted, and countersigned as before mentioned. If any person within either of the said counties of *Fayette, Bourbon, or Kanawa*, shall fail to contribute so much to the opening the said roads respectively, as will discharge the taxes that may be due from him, her, or them, it shall be lawful for the said commissioners to require the said sheriffs to distrain therefor, and the amount thereof when collected, shall be paid to the commissioners, and applied by them to the purposes aforesaid, and the sheriffs on a settlement of their accounts, shall have a credit for all sums so paid by them to the commissioners. If any sheriff shall fail to distrain for, and pay to the commissioners the sums so required by them within sixty days after he shall be required to make distress, it shall be lawful for the court of the county to which such sheriff belongs, to give judgment against him therefor on the motion of the commissioners, provided he has ten days notice of such motion. So soon as the said commissioners shall have compleated the said roads, or expended the sums herein before directed to be applied to the opening the same, they shall direct the sheriffs of the said counties respectively, to proceed to collect all the taxes that shall then be due in the said counties, which shall be accounted for by the said sheriffs, and paid into the public treasury within six months thereafter, and in case of failure, the Solicitor General shall proceed against them, in like manner as against other defaulting sheriffs. The said com-

missioners



missioners shall return to the Auditor an exact account of the certificates granted by them, and of the several sums received by them from the Sheriffs; and until such account be returned, no such certificates shall be received of any Sheriff. All proceedings against the Sheriffs of the said counties of *Fayette, Bourbon, and Kanawha*, shall be suspended until the said accounts shall be returned by the Commissioners. The Clerks of the said Courts, shall return to the Executive within six months after the same shall be taken, copies of the bonds entered into by the said Commissioners, and certificates of their having taken the oaths herein directed to be administered to them: Every Clerk failing so to do, shall forfeit fifty pounds to the use of the Commonwealth, to be recovered on the motion of the Solicitor General, in the General Court or other Superior Court; provided each Clerk hath ten days previous notice of such motion. PROVIDED NEVERTHELESS, that nothing in this act shall be construed to affect the taxes due from that part of the county of *Kanawha*, which was heretofore a part of *Greenbrier*, and which may have been appropriated for opening a road from the town of *Lewisburg*, in the county of *Greenbrier*, to the Falls of the Great *Kanawha*.

## C H A P. LXVI.

## An ACT to revive and amend an Act, intituled, "An Act for OPENING and STRAIGHTENING certain PUBLIC ROADS."

[Passed the 26th of DECEMBER, 1788.]

SECTION I. WHEREAS the Commissioners appointed by the act, intituled, "*An act for opening and straightening certain public roads*," to view and fix on the most convenient and direct way for opening a road from *Fredericksburg*, to the city of *Richmond*, could not perform the same by the time limited in the said act for that purpose: BE it therefore enacted, that *William Nelson, William F. Gray, Thomas Minor, Stapleton Crutchfield, William Pollard, John Garland, Miles Selden, and Thomas Proffer*, Gentlemen, or a majority of them, shall, on or before the first day of *October* next, do, and perform, what the former Commissioners in the third section of the said act were required to do: PROVIDED ALWAYS, that the said Commissioners shall make report of their proceedings to the next General Assembly, and not to the County Courts.

SECT. II. AND WHEREAS the act passed the last session of Assembly, intituled, "*An act to amend two acts of Assembly, the one, intituled, 'An act for keeping certain roads in repair,' the other 'An act for opening and straightening certain public roads,'*" requires the meeting of five Commissioners to turn or alter any part of the said roads, a number from their dispersed situation it is found difficult to collect, BE it therefore enacted, that any three of the said Commissioners shall be sufficient to meet and view the road so proposed to be turned, and upon their report, the Court shall be authorized to establish the same, or order a review, as to them shall seem right; and in either case, if the alteration shall be objected to by the proprietor, or his agent, through whose land the said road is to run, the like proceedings shall be observed so far as may be necessary to entitle the proprietor to a compensation as prescribed by the act "*Concerning public roads*."

## C H A P. LXVII.

## An ACT establishing DISTRICT COURTS, and for regulating the GENERAL COURT.

[Passed the 22d of DECEMBER, 1788.]

SECTION I. WHEREAS the delays inseparable from the present constitution of the General Court may be often equal to a denial of justice, the expences of the criminal prosecutions are unnecessarily burthened to the citizens of this Commonwealth, violations of the laws frequently pass with impunity from the difficulty with which witnesses attend from great distances, and the authority of those laws would be more diffusively promulgated by the establishment of District Courts: BE it therefore enacted by the General Assembly, that this Commonwealth, except the District of *Kentucky*, shall be divided into Districts, and a Superior Court holden in each, in the manner, and at the times and places hereinafter mentioned, that is to say: The counties of *Henrico, Hanover, Chesterfield, Goochland, and Powhatan*, shall compose one District, and a Court shall be holden for the same at the capitol, in the city of *Richmond*, on the first day of *April*, and the first day of *September*, in every year: The counties of *James-City, Charles-City, New-Kent, Surry, Gloucester, York, Warwick, and Elizabeth-City*, shall compose another District, and a Court shall be holden for the same at the city of *Williamsburg*, in the former capitol, on the twenty-ninth day of *April*, and the twenty-ninth day of *September*, in every year: The counties of *Richmond, Westmoreland, Lancaster, and Northumberland*, shall compose another District, and a Court shall be holden for the same at *Northumberland* courthouse, on the first day of *April*, and the first day of *September*, in every year: The counties of *Essex, Middlesex, King & Queen, and King William*, shall compose another District, and a Court shall be holden for the same, at *King & Queen* courthouse, on the fifteenth day of *April*, and the fifteenth day of *September*, in every year: The counties of *Spotsylvania, Caroline, King George, Stafford, Orange, and Culpeper*, shall compose another District, and a Court shall be holden for the same at *Fredericksburg*, on the twenty-ninth day of *April*, and the twenty-ninth day of *September*, in every year: The counties of *Frederick, Berkeley, Hampshire, Hardy, and Shenandoah*, shall compose another District, and a Court shall be holden for the same at *Winchester*, on the fifteenth day of *April*, and the first day of *September*, in every year: The counties of *Augusta, Rockbridge, Rockingham, and Pendleton*, shall compose another District, and a Court shall be holden for the same at *Staunton*, on the first day of *April*, and the first day of *September*, in every year: The counties of *Albemarle, Louisa, Fluvanna, and Amherst*, shall compose another District, and a Court shall be holden for the same at *Charlottesville*, on the fifteenth day of *April*, and the fifteenth day of *September*, in every year: The counties of *Fairfax, Fauquier, Loudoun, and Prince William*, shall compose another District, and a Court shall be holden for the same at *Dumfries*, on the twelfth day of *May*, and the twelfth day of *October*, in every year: The counties of *Harrison, Monongalia, Ohio, and Randolph*, shall compose another District, and a Court shall be holden for the same at



*Montgomery* courthouse, on the third day of *May*, and the twentieth day of *September*, in every year: The counties of *Montgomery*, *Washington*, and *Russell*, shall compose another District, and a Court shall be holden for the same at *Washington* and *Montgomery* courthouses, alternately, on the second day of *May*, and the second day of *October*, in every year: The counties of *Norfolk*, *Isle of Wight*, *Princess Ann*, *Nansemond*, and *Southampton*, shall compose another District, and a Court shall be holden for the same at *Suffolk*, on the twelfth day of *May*, and the twelfth day of *October*, in every year: The counties of *Prince George*, *Suffex*, *Dinwiddie*, and *Amelia*, shall compose another District, and a Court shall be holden for the same at *Petersburg*, on the fifteenth day of *April*, and the fifteenth day of *September*, in every year: The counties of *Brunswick*, *Greenville*, *Lunenburg*, and *Mecklenburg*, shall compose another District, and a Court shall be holden for the same at *Brunswick* courthouse, on the twenty-ninth day of *April*, and the twenty-ninth day of *September*, in every year: The counties of *Prince Edward*, *Buckingham*, *Charlotte*, *Halifax*, and *Cumberland*, shall compose another District, and a Court shall be holden for the same at *Prince Edward* courthouse, on the first day of *April*, and the first day of *September*, in every year: The counties of *Bedford*, *Campbell*, *Franklin*, *Pittsylvania*, and *Henry*, shall compose another District, and a Court shall be holden for the same at *New-London*, in the late courthouse of *Bedford* county, now belonging to *James* and *John Calloway*, who have agreed to put the same in repair, at their own expence, for the use of the District Court, so to be holden in *New-London*, on the fifteenth day of *April*, and the fifteenth day of *September*, in every year: The counties of *Accomack* and *Northampton*, shall compose another District, and a Court shall be holden for the same at *Accomack* courthouse, on the twelfth day of *May*, and the twelfth day of *October*, in every year: The counties of *Greenbrier* and *Botetourt*, shall compose another District, and a Court shall be holden for the same at *Lewisburg*, in *Greenbrier*, and *Botetourt* courthouse, alternately, on the eighteenth day of *May*, and the eighteenth day of *October*, in every year, until the proprietor of the *Sweet Springs* shall erect a sufficient courthouse and prison for the purposes of this act, after which time the *Sweet Springs* shall become the seat of the District Court. And if any of the said several days happen to be *Sunday*, the Courts shall in that case, respectively, begin on the succeeding day. Each Court shall sit, if business require it, ten days successively, *Sundays* exclusive, and no longer, and shall be a Court of Record.

SECT. II. AND WHEREAS there is not any courthouse in the town of *Petersburg*, wherein the District Court can hold their sessions, and it is necessary some place should be fixed on for holding the said Courts, as also for ascertaining the place whereon the courthouse and prison shall be built; BE it therefore enacted, that until the public buildings shall be erected, the said Court shall hold their sessions in the house of *Robert Armistead*, in the said town, and that the courthouse and prison be built on the lands of *Erasmus Gill*, in the said town, if he be willing to erect the same at his own expence, and the situation on such land be as convenient and proper in the opinion of the County Court of *Dinwiddie*, as any other place which may be offered for that purpose; and that, after the same shall be completed, the Court shall be holden in such courthouse: But in case the said *Erasmus Gill* shall refuse to erect the necessary public buildings, or the said County Court shall deem the situation on his land inconvenient or improper, that then the said Court are hereby empowered to fix on the lands of any other person within the said town whereon the said buildings shall be erected, who may be willing to erect the same at his or her own expence.

SECT. III. THE new counties which have been already made during the present session shall be annexed to Districts as follows, that is to say: The county of *Kanawha*, to the District of *Greenbrier* and *Botetourt*; and the county of *Nottoway*, to the District of *Prince George*, *Suffex*, *Dinwiddie*, and *Amelia*; and those counties which shall hereafter be made, shall, if taken from one county, or from two or more counties lying in the same District, remain in the District to which they formerly belonged; and if taken from two or more counties lying in different Districts, the counties so to be made shall be annexed, unless it be otherwise declared by the Legislature, to such of the Districts in which the old counties lie, as shall be approved by the Executive, subject to the revision of the General Assembly.

SECT. IV. THREE Judges shall be elected by joint ballot of both Houses of Assembly, in addition to the present nine Judges of the General Court. And it shall be the duty of the Judges of the General Court to attend the District Courts, allotting among themselves half yearly, the Districts they shall respectively attend at the succeeding terms thereof: Two to each Court, who shall be Judges of the Court to which they shall be allotted; which allotment shall be certified under the hands and seals of the Judges making the same, and entered upon the records of the General Court and District Courts, at their next terms to be holden respectively: And the said Judges shall constitute a Court for such Districts. In case of a temporary appointment of a Judge made by the Executive after the half yearly allotment of Districts, as aforesaid, such Judge shall take the place of him in whose stead he was appointed: PROVIDED NEVERTHELESS, that if any one of the said Judges shall not attend the Court, to which he shall be so allotted, by sickness, or other disability, that in such case, the other Judge shall constitute a Court, under the following restrictions, to wit: In all criminal cases where the charge shall be of such a nature as in case of conviction, to subject the party to capital punishment or burning in the hand, two Judges shall be necessary to proceed upon the trial of the issue, whether in law or fact: PROVIDED ALWAYS, that if only one Judge shall attend the said Court, and any prisoner shall notwithstanding petition to be brought to trial, in such case, one Judge shall constitute a Court for such purpose. When two Judges shall attend, all questions arising in criminal cases, and submitted to the Court, in case the Court shall be divided, shall be considered as adjudged in favor of the criminal; and if the Court shall be divided upon the final judgment or sentence, judgment shall be entered up in favor of the prisoner, and he forthwith discharged.

SECT. V. WHEN two Judges do not attend, all criminal cases depending in such Court, and not tried upon the consent and petition of the prisoner, where the punishment shall be death or burning in the hand, shall stand continued over to the next Court to be held for that District; and if two Judges do not attend at such next Court, every prisoner, whose cause has been so continued over, shall be bailed as of right, which bail shall be according to the degree of the offence and the ability of the prisoner. And if such prisoner shall appear on the first day of the next term and render himself pursuant to his recognizance, and there shall not be a sufficient Court to try such prisoner on or before the third day of that Court, such prisoner shall be forthwith discharged.

SECT. VI. EACH Judge of the General Court, besides the oaths required by law to be taken by him as such, shall take another oath as Judge of the District Courts, in the same form as that prescribed by law for a Judge of the General Court, changing the words "General Court," for "District Courts," which last mentioned oath may be taken before any Court of Record, and a certificate thereof lodged in the District Court in which such Judge shall first sit, and shall enable him to act as a District Judge in all duties of office, and as a general conservator of the peace throughout the Commonwealth; and on taking the same the additional Judges



to be elected may act as Judges of the District Courts, until the next session of the General Court, without having taken the oath as Judges of that Court.

SECT. VII. Any Judge who shall sit as a Judge of a District Court, without having taken the oaths herein required to be taken by him, shall forfeit the sum of five hundred pounds, to be recovered by action of debt, or information, in any Court of Record; one half to the use of the Commonwealth, and the other half to the use of the informer.

SECT. VIII. IF the Judge shall not attend on the first day of any District Court, such Court shall stand adjourned from day to day until a Court shall be made; if that shall happen before four of the clock in the afternoon of the sixth day.

SECT. IX. IF a Court shall not sit in any term, or shall not continue to sit the whole term, or before the end of the term shall not have heard and determined all matters ready for their decision, all such suits and things depending in Court and undecided, shall stand continued to the next succeeding term.

SECT. X. IF from any cause the Court shall not sit on any day in a term, after it shall have been opened, there shall be no discontinuance. But so soon as the cause is removed, the Court shall proceed to business, until the end of the term, if the business depending before them be not sooner dispatched.

SECT. XI. THE jurisdiction of the said Courts, respectively, shall be over all persons; and in all causes, matters, or things at common law now cognizable in the General Court, and which shall amount to thirty pounds, or three thousand pounds of tobacco, whether brought before them by original process, by *habeas corpus*, appeal, writ of error, *superfedeas*, *mandamus*, *certiorari*, to remove proceedings on a forcible entry or detainer, or for any other purpose, or by any legal ways or means whatsoever; and also all suits now depending in the General Court, except as hereinafter is excepted. They shall also have the same jurisdiction concerning mills, wills, roads, and letters of administration, orphans and guardians, public debtors, whether Sheriffs or others, and the recording of deeds for lands and other property within the District, and caveats, as the General Court now hath by law, and the said Courts shall hear and determine all controversies touching the same. PROVIDED ALSO, that writs of *habeas corpus*, appeal, error, *superfedeas*, *mandamus*, and *certiorari*, and controversies concerning mills, wills, roads, caveats, and letters of administration, shall not be heard or determined by any District Court, unless such writ of error, *superfedeas*, *mandamus*, and *certiorari*, relate to some record or proceeding within the said District, or the person praying the *habeas corpus*, or the mills or roads, or lands, for which the caveats have been instituted, be within the same, or the wills or letters of administration be cognizable by the Court of some county within the said District.

SECT. XII. THOSE cases in which the Court of Admiralty hath jurisdiction by law, and which are not taken away by the Constitution of the United States, are hereby transferred to the District Courts, to be proceeded on as the law requires in the said Court of Admiralty.

SECT. XIII. THE Court shall have power to try all issues, and enquire of damages by a jury in all causes before them, and to determine all questions concerning the legality of evidence, and other matters of law, which may arise, for which trial the Court shall cause the Sheriff attending them to impanel and return jurors, to be sworn well and truly to try the issue joined, or to enquire of damages (as the case may be) according to evidence.

SECT. XIV. THE Court shall hear and determine motions against Sheriffs or other officers, and Attornies at Law, for the Directors of the *James River* and *Potowmack* Companies, and for securities against their principal, or against each other, for contribution in all cases, and according to the rules prescribed by law.

SECT. XV. THE District Court to be held as aforesaid, shall have full power to hear and determine all treasons, murders, felonies, and other crimes and misdemeanors, committed within their District, and which shall be brought before them under the regulations herein before prescribed.

SECT. XVI. THE Court, when a question new or difficult arises, may adjourn any matter of law to the General Court, or any party thinking himself aggrieved by the judgment of the District Court, may appeal thereupon as of right, or obtain a writ of error thereto from the Court of Appeals, not of right, but at the discretion of the Court.

SECT. XVII. ON an adjournment of a question to the General Court, or an appeal or writ of error to the Court of Appeals, the same proceedings shall be had as in cases heretofore going from the General Court to the Court of Appeals, but no costs shall be incurred on any adjourned question.

SECT. XVIII. NO Judge shall twice successively attend the same District.

SECT. XIX. THE Judges of the General Court shall forthwith assemble at the capitol in the city of *Richmond*, on a day to be appointed and notified to each Judge, by the Governor, with advice of the Council, and they, or such as shall meet, provided the number be five, shall proceed by a majority of votes to appoint a Clerk for each District Court, making a list of the several appointments to be returned to, and entered of record in the General Court at their next succeeding session: They shall also give to each Clerk elected, a certificate of his appointment, who having taken the oath for giving assurance of fidelity to the Commonwealth, and the oath required to be taken by Clerks of Courts, adapting the same to the District Court, shall thenceforth be enabled to execute the duties of his office; which oaths may be taken by the Clerks respectively, either before the Judges so assembled, or any Court of Record in the Commonwealth, and a certificate thereof, as well as of the appointment of each, shall be entered of Record in his District, wherein at the first session he shall moreover enter into bond, with sufficient security, in the penalty of three thousand pounds, payable to the Governor or Chief Magistrate, and his successors, with condition for the faithful performance of his duty; which bond may be put in suit for the benefit, and at the costs of any person or persons aggrieved by the non-feazance or misfeazance of the Clerk, as often as there shall be occasion, until the whole penalty shall be recovered or levied. Each Clerk shall hold his office during good behavior, shall be removable on conviction upon an indictment or information, for misuser or nonuser in office, and shall reside and keep his office at the District courthouse of which he is Clerk, but when it is held alternately at different courthouses, then he shall keep his office either at the one or the other courthouse, as he may think best.

SECT. XX. WHENSOEVER there shall be a vacancy in the office of Clerk of any District Court, or if a number sufficient to appoint Clerks shall not meet at the capitol, in the city of *Richmond*, on the day aforesaid, it shall be lawful for a majority of the Judges of the General Court to appoint by commission under their hands and seals. PROVIDED that when such vacancy shall happen during the session of a District Court, or the Judges of the General Court shall neglect to supply any vacancy until the ensuing session of the District Court, in which the vacancy shall be, it shall be lawful for the Judges attending such District Court to appoint a Clerk by commission under their hands and seals, which shall be as valid and effectual as if granted by a majority of the Judges of the General Court. And where the Clerk of any District Court cannot attend, it may be lawful for the Judges of such Court to appoint a Clerk *pro tempore*.

SECT.



SECT. XXI. THE Clerks fees shall be the same with those of the County Courts for similar services, and for all other services, the same as those of the Clerk of the General Court, and shall be collected and accounted for in the same manner, and under the same penalties, as those of the Clerks of the County Courts now are.

SECT. XXII. THE Judges of the Court of Appeals shall direct the forms of writs, from time to time, in such manner as shall seem advisable, and until an alteration be made therein, the forms shall be, as nearly as may be, assimilated to those now used in the General Court.

SECT. XXIII. ALL writs, summonses, and other legal process, shall be issued by the Clerk, bear teste in his name, and be returnable to the next Court, to be holden for the District, except in the case of subpoenas for witnesses, which may be returnable immediately, if issued in term time, or on any day of the term.

SECT. XXIV. WRITS of *habeas corpus* may be granted without a seal, pursuing in all other respects the act, intituled, "*An act directing the mode of suing out and prosecuting writs of habeas corpus*," and in all cases in which they are now obtainable by law from the General Court.

SECT. XXV. IN all actions or suits which may be commenced against the Governor of this Commonwealth, any Member of the Privy Council, any of the Judges of the Superior Courts, or the Sheriff of any county during his continuance in office, instead of the ordinary process, a summons shall issue to the Sheriff, or other proper officer, reciting the cause of action, and summoning such defendant to appear and answer the same on the proper return day in the next District Court; and if such defendant, being summoned, or after a copy shall have been left at his house ten days before the return day, shall not appear to answer the same, the Court shall proceed against such defendant in the same manner as if he had been taken upon a *capias ad respondendum*. PROVIDED ALWAYS, that after judgment and the return of a *feri facias* by the Sheriff of that county in which the defendant in any such case resides, that no effects or not sufficient are to be found in his bailiwick to satisfy the said judgment, a *capias ad satisfaciendum* may be issued as in other cases.

SECT. XXVI. NO writ of *capias ad respondendum* shall be issued against any person in any other District than that in which he resides, until a *non est inventus* has been returned in his or her District, upon a *capias* issued against such defendant in the same suit, and every writ issued contrary thereto shall be *ipso facto* void, and dismissed on the first calling thereof: PROVIDED NEVERTHELESS, that where two or more persons are or shall be jointly, or jointly and severally bound for the performance of any contract, or for the payment of money or tobacco, by bond, covenant, or otherwise, it shall be lawful to prosecute such persons jointly, in whatever District either of them may reside, and process shall be issued and served accordingly. And where the bond or other writing on which such suits shall be founded shall be filed in the General Court, in a county or other Inferior Court, in the Court of one District, and over thereof shall be demanded by the defendant, or defendants, to a suit in another District, it shall be sufficient for the plaintiffs in the last mentioned suit to file a copy of the bond or writing, attested by the Clerk of the Court wherein the same is filed; and the defendant, or defendants, shall be obliged to plead thereto in like manner as if the original bond or writing was filed, and such copy shall be admitted as evidence on the trial. If, however, the defendant, or defendants, shall in such case, plead that the original bond or writing is not his or their deed, the Clerk of the Court having such original paper in his custody, shall, on being summoned as a witness, attend with the same at the trial of the issue for the inspection of the jury.

SECT. XXVII. IN all actions to recover the penalty for breach of any penal law not particularly directing special bail to be given, in actions of slander, trespass, assault and battery, actions on the case for trover or other wrongs, and all personal actions, except such as shall be hereinafter particularly mentioned, the plaintiff or his Attorney, shall, on pain of having his suit dismissed, with costs, endorse on the original writ, or subsequent process, the true species of action, that the Sheriff, to whom the same is directed, may be thereby informed whether bail is to be demanded on the execution thereof; and in the cases before mentioned the Sheriff may take the engagement of an Attorney practising in the District Court endorsed upon the writ, that he will appear for the defendant, or defendants, and such appearance shall be entered with the Clerk in the office on the first day after the end of the Court to which such process is returnable, which is hereby declared to be the appearance day in all process returnable to any day of the Court next preceding. Every Attorney failing to enter an appearance according to such engagement, shall forfeit to the defendant fifty shillings, for which, judgment shall be immediately entered, and execution may issue thereupon. And although no such engagement of an Attorney shall be offered to the Sheriff, he shall nevertheless be restrained from committing the defendant to prison, or detaining him in his custody, for want of appearance-bail; but the Sheriff in such case shall return the writ executed, and if the defendant shall fail to appear thereto, there shall be the like proceeding against him only, as is hereinafter directed against defendants and their appearance-bail, where such is taken. PROVIDED ALWAYS, that any Judge of the General Court, in actions of trespass, assault and battery, trover and conversion, and in actions on the case, where, upon proper affidavit, or affirmation, it shall appear to him proper, that the defendant, or defendants, should give appearance-bail, may, and he is hereby authorised to direct such bail to be taken by endorsement on the original writ, or subsequent process; and every Sheriff shall govern himself accordingly.

SECT. XXVIII. IN all actions of debt founded on any writing obligatory, bill or note in writing, for the payment of money or tobacco, all actions of covenant or detinue, in which cases the true species of action shall be endorsed on the writ as before directed, and that appearance-bail is to be required, the Sheriff shall return on the writ, the name of the bail by him taken, and a copy of the bail-bond to the Clerk's office before the day of appearance; and if the defendant shall fail to appear accordingly, or shall not give special bail, being ruled thereto by the Court, the bail for appearance may defend the suit, and shall be subject to the same judgment and recovery as the defendant might or would be subject to, if he had appeared and given special bail; and in actions of detinue the bail-piece shall be so changed, as to subject the bail to the restitution of the thing, whether animate or inanimate, sued for, or the alternative value, as the Court may adjudge. And if the Sheriff shall not return bail and the copy of the bail-bond, or the bail returned shall be adjudged insufficient by the Court, and the defendant shall fail to appear and give special bail, if ruled thereto, in such case the Sheriff may have like liberty of defence, and shall be subject to the same recovery, as is provided in the case of appearance-bail. And if the Sheriff depart this life before judgment be confirmed against him, in such case the judgment shall be confirmed against his executors or administrators, or if there shall not be a certificate of probate or administration granted, then it may be confirmed against his estate, and a writ of *feri facias* may in either case be issued: But the plaintiff shall object to the sufficiency of the bail during the sitting of the Court next succeeding that to which the writ is returnable, or in the office on the first or second rule day, and at no time thereafter.

SECT. XXIX. And all questions concerning the sufficiency of bail so objected to in the office shall be determined by the Court at their next succeeding term; and in all cases where the bail shall be judged insufficient, and



and judgment entered against the sheriff, he shall have the same remedy against the estate of the bail, as against the estate of the defendant: And that every judgment entered in the office against a defendant and bail, or against a defendant and sheriff, shall be set aside if the defendant at the succeeding court shall be allowed to appear without bail, put in good bail being ruled so to do, or surrender himself in custody, and shall plead to issue immediately; the court shall regulate all other proceedings in the office during the preceding vacation, and rectify any mistakes or errors which may have happened therein. In every case where judgment shall be confirmed against any defendant, or defendants and bail, or the sheriff, his executors, administrators, or estate as aforesaid, the court, upon motion of such bail, or of such sheriff, his executors or administrators, or any other person on behalf of his estate, may order an attachment against the estate of such defendant or defendants, returnable to the next succeeding court; and upon the execution and return of such attachment, the court shall order the estate seized, or so much thereof as will be sufficient to satisfy the judgment and costs, and all costs accruing under the attachment, to be sold as goods taken in execution upon a *fiere facias*; and out of the money such judgment and costs shall be satisfied, and the surplus, if any, restored to the defendant or defendants when required.

SECT. XXX. ANY Judge of the General Court, when the District Court is not sitting, or any Justice of the Peace, may take recognizance of special bail in any action therein depending, which shall be transmitted by the person taking the same before the next succeeding court, to the clerk of the said court, to be filed with the papers in such action; and if the plaintiff or his attorney shall except to the sufficiency of bail so taken, notice of such exception shall be given to the defendant or his attorney, at least ten days previous to the day on which such exception shall be taken: And if such bail shall be judged insufficient by the court, the recognizance thereof shall be discharged, and such proceedings shall be had as if no such bail had been taken.

SECT. XXXI. EVERY special bail may surrender the principal before the court where the suit hath been or shall be depending at any time either before or after judgment shall be given: *PROVIDED*, such surrender be made before the appearance day of the first *scire facias* against the bail, returned executed, or of the second returned *nihil*, but in either case the special bail shall pay the costs of the said *scire facias*, and judgment for the same shall be entered against him accordingly: Upon such surrender, the bail shall be discharged, and the defendant or defendants shall be committed to the custody of the sheriff or jailor attending such court, if the plaintiff or his attorney shall desire the same, or such special bail may discharge himself or herself by surrendering the principal or principals to the sheriff of the county where the original writ was served, and such sheriff shall receive such defendant or defendants, and commit him, her, or them to the jail of his county, and shall give a receipt for the body or bodies of such defendant or defendants, which shall be by the bail transmitted to the clerk of the court where the suit is or was depending. When such tender after judgment shall be to the sheriff, he shall keep such defendant or defendants in his custody, in the same manner, and subject to the like rules as are provided for debtors committed in execution for the space of twenty days, unless the creditor, his attorney or agent, shall sooner consent to his, her, or their discharge. The bail shall give immediate notice of such render, to the creditor, his attorney or agent, and if within the said twenty days, such creditor, his attorney or agent, shall not in writing charge the debtor, or debtors in execution, he, she, or they shall be forthwith discharged out of custody; but the plaintiff or plaintiffs may nevertheless afterwards sue out any legal execution against such debtor or debtors, without suing out a *scire facias*.

SECT. XXXII. WHEN the sheriff or other proper officer shall return on any original or mesne process, that he hath taken the body of any defendant and committed him to prison for want of appearance-bail, the plaintiff may proceed and the defendant make his defence in like manner as if his appearance-bail had been entered and accepted, but the defendant shall not be discharged out of custody, until he shall put in good bail, or the plaintiff shall be ruled by the court to accept an appearance without bail, and where any defendant after appearance entered, shall be confined to prison, the plaintiff may file his declaration, give a rule to plead, and deliver copies of such declaration and rule to the defendant or his attorney; and if the defendant shall fail to enter his plea within two months after receiving such declaration and notice, the plaintiff may have his judgment by default as in other cases.

SECT. XXXIII. WHERE the sheriff or other proper officer shall return on any writ of *capias*, to answer in any civil action, that the defendant is not found within his bailiwick, the plaintiff may either sue out an *alias* or a *pluries capias* until the defendant shall be arrested, or a *testatum capias* where he shall be removed into another county, or may at his election sue out an attachment against the estate of the defendant to force an appearance; and if the sheriff or other officer shall return that he hath attached any goods, and the defendant shall not appear and replevy the same, by entering his appearance and giving special bail, in case he shall be ruled so to do, the plaintiff shall file his declaration, and be entitled to a judgment for his debt or damages and costs, which judgment shall be final in all actions of debt founded on any specialty, bill, or note in writing, ascertaining the demand; unless the plaintiff shall chuse in any such case to have a writ of enquiry of damages; and in other cases the damages shall be settled by a jury sworn to inquire thereof. The goods attached shall remain in the hands of the officer till such final judgment be entered, and then be sold in the same manner as goods taken upon a *fiere facias*; and if the judgment shall not be thereby satisfied, the plaintiff may sue out execution for the residue; and in case more goods be attached than will satisfy the judgment, the surplus shall be returned to the defendant.

SECT. XXXIV. IF any writ or process shall be executed, and for want of a return thereof to the office from which it issued an *alias*, *pluries*, attachment, or other process be awarded, the sheriff shall not execute such subsequent process, but shall return the first process by him executed, if it be in his possession, but if it be not in his possession, then he shall return the subsequent process, with an endorsement of the execution of such first process, and the name of the appearance-bail, if any was taken, and shall also return a copy of the bail bond; on which there shall be the same proceedings as if the said first process had been duly returned.

SECT. XXXV. RULES shall be monthly held in the clerk's office of each District Court, beginning the day after the rising of such court.

SECT. XXXVI. THE plaintiff shall file his declaration in the clerk's office, at the next succeeding rule day, after the defendant shall have entered his appearance, or the defendant may then enter a rule for the plaintiff to declare, which if he fail or neglect to do at the succeeding rule day, or shall at any time fail to prosecute his suit, he shall be non-suited, and pay to the defendant or tenant, besides his costs, one hundred and fifty pounds of tobacco, where his place of abode is at the distance of twenty five miles or under, from the place of holding the said District Court, and where it is more, five pounds of tobacco for every mile above twenty.

SECT. XXXVII. ONE month after the plaintiff hath filed his declaration, he may give a rule to plead with the clerk, and if the defendant shall not plead accordingly at the expiration of such rule, the plaintiff may enter judgment for his debt or damages, and costs.



SECT. XXXVIII. ALL rules to declare, plead, reply, rejoin, or for other proceedings, shall be given regularly from month to month, shall be entered in a book to be kept for that purpose, and shall expire on the succeeding rule-day.

SECT. XXXIX. NO plea in abatement shall be admitted or received, unless the party offering the same, shall prove the truth thereof by oath or affirmation, as the case may require: And no plea of *non est factum* offered by the person charged as the obligor or grantor of a deed, shall be admitted or received, unless the truth thereof shall in like manner be proved by oath or affirmation: And where any person other than the obligors, shall be defendant, such defendant shall prove by oath or affirmation, that he or she, verily believes, that the deed on which the action is founded, is not the deed of the person charged as the obligor or grantor thereof; in which last mentioned case, the plea of *non est factum* shall not be admitted or received without such oath or affirmation. And where a plea in abatement shall upon argument be judged insufficient, the plaintiff shall recover full costs to the time of over-ruling such plea, a lawyer's fee only excepted.

SECT. XL. THE plaintiff in replevin, and the defendant in all other actions, may plead as many several matters, whether of law or fact, as he shall think necessary for his defence.

SECT. XLI. ON the return of the *pluries*, that the defendant is not to be found, the court, instead of the process to outlawry formerly used, may order a proclamation to issue, warning the defendant to appear at a certain day therein named, or that judgment will be rendered against him, which proclamation shall be published on three successive court-days, at the door of the courthouse of the county to which the last process was directed, and also three times in the *Virginia* gazette; and if the defendant fails to appear pursuant to such proclamation, the same proceedings shall be had, and the same judgment given, as in other cases of default.

SECT. XLII. ALL judgments by default for want of an appearance, or special bail, or pleas as aforesaid, and non-suits or dismissions obtained in the office, and not set aside, on the third day of the next succeeding District Court, shall be entered by the clerk as of that day, which judgment shall be final in actions of debt founded on any specialty, bill, or note in writing, ascertaining the demand, unless the plaintiff shall chuse in any such case to have a writ of enquiry of damages, and in all other cases the damages shall be ascertained by a jury, to be impanelled and sworn to enquire thereof, as is herein after directed.

SECT. XLIII. BEFORE every District Court, the clerk shall enter in a particular docket, all such causes (and those only) in which an issue is to be tried, or enquiry of damages to be made, or a special verdict, case agreed, demurrer, or other matter of law is to be argued, in the same order as they stand in the course of proceeding, setting as near as may be, an equal number of causes to each day.

SECT. XLIV. JURIES *de medietate linguae* may be directed by the court to be summoned.

SECT. XLV. JURORS knowing any thing relative to the point in issue, shall disclose the same in open court.

SECT. XLVI. ANY juror guilty of a contempt to the court, shall be fined by the court any sum not exceeding ten pounds.

SECT. XLVII. PAPERS read in evidence, though not under seal, may be carried from the bar by the jury.

SECT. XLVIII. NO slieriff shall converse with a juror but by order of the court.

SECT. XLIX. THE qualification of jurors shall be the same as in the General Court.

SECT. L. THE fee for summoning a jury shall be fifty pounds of tobacco, or six shillings and three-pence, to be taxed in the bill of costs.

SECT. LI. IN all cases where witnesses are required to attend the District Court, a summons shall be issued by the clerk, expressing the day and place where they are to appear, the names of the parties to the suit, and in whose behalf summoned.

SECT. LII. WHEN any witnesses shall be about to depart the country, or about to go to, or shall be in, the District of Kentucky, or by age, sickness, or otherwise shall be unable to attend the court, upon affidavit thereof, or on a certificate to that effect, from any Justice of the Peace, the clerk may, on request of either party, award a commission for taking the deposition of such witness *de bene esse*, to be read as evidence at the trial, in case the witness should be unable to attend; but the party obtaining such commission, shall give reasonable notice to the other party, of the time and place of taking the deposition, otherwise the same shall be void.

SECT. LIII. UPON affidavit that any witness resides beyond sea, or in any foreign country, or in any other of the United States, the court wherein the suit is depending may, on request of either party, direct a commission to issue from the clerk's office, directed to such commissioners not exceeding five, as shall be nominated and agreed upon by the parties litigant, for which purpose, the party applying for a commission in such cases, shall give the adverse party, his attorney or agent, ten days previous notice of the day of his intended application to the court, without which no commission shall issue, and if the adverse party, his attorney or agent, shall not attend for the purpose, in that case the party praying the commission may nominate the commissioners himself, any three of whom in either case may proceed to execute the said commission: *PROVIDED nevertheless*, that in either case reasonable notice shall be given to the adverse party, of the time and place of taking such deposition, and the costs of giving such notice as aforesaid, as well as of taking any deposition or depositions in any, or either of the United States, or beyond sea, or in any foreign country, may be taxed by the court against the party who, in their opinion, ought in justice to pay the same.

SECT. LIV. IF any party in a suit at common law shall make oath, that he verily believes his claim or defence, as the case may be, or a material point thereof, depends on a single witness, the court, or the clerk in vacation, may award a commission to take the deposition of such witness *de bene esse*, although he or she be not about to depart the country, nor under any disability, the party in such case giving reasonable notice of the time and place of taking such deposition to the adverse party.

SECT. LV. IF any person summoned as a witness, and attending the court or the commissioners, to take his or her deposition as aforesaid, shall refuse to give evidence upon oath or affirmation, as the case may be, to the best of his or her knowledge, every person so refusing, shall be committed to prison by the court or commissioners, there to remain without bail or mainprize, until he or she shall give such evidence. If any person summoned to appear before commissioners or other persons, to depose or give testimony, shall fail to attend (not having a reasonable excuse) he or she, shall be fined by the court, from whence the *subpoena* issued, in like manner as witnesses failing to attend the courts. Every witness summoned to appear before the commissioners or referees, shall be intitled to the same allowance, to be certified by the commissioners or referees, and entered of record by the court, to be taxed in the bill of costs, and be privileged from arrests, in like manner as is directed and prescribed by law, for witnesses attending courts.



SECT. LVI. NO person convicted of perjury shall be capable of being a witness in any case, nor shall any negro, mulatto, or *Indian* be admitted to give evidence, but against, or between, negroes, mulattoes, or *Indians*.

SECT. LVII. IF any person summoned as a witness to attend the District Court shall fail to attend accordingly, such person shall be fined five pounds or one thousand pounds of tobacco, at the option of the payer to the use of the party for whom such witness was summoned; and the witness so failing shall farther be liable to the action of the party for all damages sustained by the non-attendance of such witness; but if sufficient cause of his or her inability to attend be shewn to the court at the time he or she ought to have appeared, or at the next succeeding court, then no fine or action shall be incurred by such failure.

SECT. LVIII. WITNESSES shall be privileged from arrests in all cases except treason, felony and breaches of the peace, during their attendance at the District Court, coming to and returning from thence; allowing one day for every twenty miles from their places of abode; and all such arrests shall be void.

SECT. LIX. EVERY witness summoned and attending the District Court, shall be paid by the party at whose suit the summons issued, two pounds of tobacco or three-pence per mile, for travelling to the places of attendance, and the same for returning, besides ferriages, and fifty pounds of tobacco or six shillings and three-pence per day for his attendance; which allowance shall be entered by the clerk of course, except where disputes arise concerning the same, and then such disputes shall be determined by the court. Witnesses in civil cases, and witnesses and venire-men in criminal cases, shall be sworn as to their travelling, ferriages, and attendance; for which purpose, and for affidavits justifying securities to bonds to be taken in the clerk's office, he or some of his assistants, specially empowered by the court of the district, shall administer the oaths.

SECT. LX. INTERPRETERS may be sworn truly to interpret when necessary.

SECT. LXI. EVERY person desirous of suffering a non-suit, on trial shall be barred therefrom, unless he do so before the jury retire from the bar.

SECT. LXII. NOT more than two new trials shall be granted to the same party in the same cause.

SECT. LXIII. THE statutes of *Jeoffails* which were passed prior to the year one thousand seven hundred and fifty three, are declared to be in force.

SECT. LXIV. AFTER issue joined in an ejectment, on the title only, no exception of form or substance shall be taken to the declaration in any court whatsoever.

SECT. LXV. ANY instrument, to which the person making the same, shall affix a scroll by way of seal, shall be adjudged and holden to be of the same force and obligation, as if it were actually sealed.

SECT. LXVI. IF in detinue the verdict should omit price or value, the court may at any time award a writ of enquiry to ascertain the same.

SECT. LXVII. IF on an issue concerning several things in one count in detinue, no verdict be found for part of them, it shall not be error, but the plaintiff shall be barred of his title to the things omitted.

SECT. LXVIII. WHERE there are several counts, one of which is faulty, and entire damages are given, the verdict shall be good; but the defendant may apply to the court, to instruct the jury to disregard such faulty count.

SECT. LXIX. A judgment on confession shall be equal to a release of errors.

SECT. LXX. IN all judgments for plaintiff or defendant, the clerk shall allow a lawyer's fee in the bill of costs, if the party employed one, which fee, in real, personal, or mixed actions, where the title or bounds of land shall, or may come in question, shall be thirty shillings, or two hundred and forty pounds of tobacco, and in all other causes, fifteen shillings or one hundred and twenty pounds of tobacco, at the election of the party paying, except in causes transferred from the General Court, in which the fee taxed shall be the same as now taxed in the General Court: *PROVIDED*, that this shall not be construed to alter the law, as to costs to be paid or not to be paid, by executors or administrators, which shall remain as heretofore.

SECT. LXXI. THERE shall not be allowed in the bill of costs, the charge of more than three witnesses for the proof of any one particular fact.

SECT. LXXII. THE laws of costs shall not be interpreted as penal laws.

SECT. LXXIII. THE District Court shall possess the same power over costs, as the General Court now possesses.

SECT. LXXIV. EXECUTIONS shall issue to any sheriff or coroner from the clerks of the District Courts, and be returnable to the first day thereof.

SECT. LXXV. AN execution, writ, or other process, appearing to be duly served in other respects, shall be deemed good, although it be not directed to any sheriff.

SECT. LXXVI. IF a *distringas* issue in detinue, the court, for good cause shewn, may direct it to be superseded, so far as it respects the specific thing, and to be executed for the alternative price or value only, if fixed in the judgment, or if the same shall afterwards be fixed by a writ of enquiry.

SECT. LXXVII. UPON any judgment in a District Court, or in a county, or other inferior court, in case the defendant, on the service of an execution, would have a right by law to replevy his estate, by giving security for payment of the money or tobacco recovered at a future day; such defendant may enter into bond with security for such payment, in the clerk's office, or to the sheriff, if execution be issued at any time before seizure, or within five days after paying for the same to the clerk or sheriff, a fee of five shillings; and the sheriff shall be entitled to no farther, or other fee upon such execution, and shall return such bond to the clerk's office; and upon all bonds thus given, there shall be the same proceedings as the laws direct on replevy bonds, taken after an execution levied on the estate.

SECT. LXXVIII. IF a replevy-bond be quashed as faulty, the sheriff taking the same shall be at all times liable for damages to the party injured, or his representatives.

SECT. LXXIX. NOTICE on replevy bonds, and all other legal occasions, wherein no particular mode is, or shall be, prescribed, shall be good if given to the party in person, or delivered in writing to any free white person above the age of sixteen years, who shall be a member of the family of such person, and shall be informed of the purport of such notice, or left at some public place at the dwelling house, or other known place of residence of such person.

SECT. LXXX. FOR preventing errors in entering up the judgments of the said courts, the proceedings of every day shall be drawn up at large by the clerk, against the next sitting of the court, when the same shall be read in open court, and such corrections, as are necessary being made therein, they shall be signed by the presiding Judge, and carefully preserved among the records.

SECT. LXXXI. ON the last day of each court, the proceedings therein shall be drawn up, read, corrected, signed and preserved as aforesaid.

SECT.



SECT. LXXXII. WHEN any cause shall be finally determined, the clerk of the District Court shall enter all the pleadings and papers, filed as evidence therein, and the judgment thereupon, so as to make a compleat record thereof; and those, wherein the title of lands is determined, shall be entered in a separate book to be kept for that purpose.

SECT. LXXXIII. ON writs of *scire facias* for renewal of judgments, no judgment shall be rendered on the return of two *nibils*, unless the defendant reside in the district, or unless he be absent from the commonwealth, and have no known attorney within the same. But such *scire facias* may be directed to the sheriff of any county in this commonwealth, wherein the defendant or his attorney shall reside, or be found, which being returned served, the court may proceed to judgment thereon, as if the defendant had resided in the district.

SECTION LXXXIV. IF any person or persons shall desire to remove any suit depending in any inferior court into the District Court, provided the same be originally cognizable therein, a *certiorari* for such removal may be granted by the District Court, for good cause shewn, upon motion, and ten days previous notice thereof given in writing to the adverse party; or in vacation, the party desiring such writ, shall by petition to the Judges of the General Court, set forth his or her reasons, and make oath before a magistrate to the truth of the allegations of such petition, whereupon any Judge of the said court may, under his hand, order the *certiorari* to issue, and direct the penalty of the bond to be taken previous thereto, or may reject such petition as to him shall seem just; provided that ten days previous notice of the time and place of applying for such writ be given in writing to the adverse party, upon which order of the Judges the clerk shall issue the *certiorari*; PROVIDED that the party shall enter into bond with sufficient security, in the penalty so directed, with condition for satisfying all money or tobacco, and costs, which shall be recovered against the party in such suit; but if any suit so removed by writ of *certiorari* shall be remanded to the inferior court by *procedendo* or otherwise, such cause shall not afterwards be removed to the District Court, before judgment shall be given therein in the inferior court.

SECT. LXXXV. THE clerks of the District Courts shall carefully preserve all such petitions for writs of *certiorari* with the affidavits thereto in the office: and if any person in such affidavit shall wilfully make a false oath, and be thereof convicted, upon a prosecution commenced within twelve months after the offence committed, such offender shall suffer the pains and penalties directed for wilful and corrupt perjury.

SECT. LXXXVI. NO writ of error or *superfedeas* shall be granted in any case, until a final judgment in the county or other inferior court. No *superfedeas* or writ of error shall be granted to any judgment in the district, or county, or other inferior court after the expiration of five years from and after the date thereof, in case of judgments hereafter to be obtained or after the first day of January, one thousand seven hundred and ninety three, in case of judgments already obtained; saving the rights of infants, *femes covert*, persons *non-compos*, in prison, or beyond seas, until the expiration of two years after the disability ceases.

SECT. LXXXVII. WHERE any person or persons, body politic or corporate, shall think themselves aggrieved by the judgment or sentence of any county court, or court of hustings, in any action, suit, or contest whatsoever, where the debt or damages or other thing recovered or claimed in such suit exclusive of the costs shall be of the value of thirty pounds, or three thousand pounds of tobacco or upwards, or where the title or bounds of land shall be drawn in question, or the contest shall be concerning mills, roads, the probate of wills, or certificates for obtaining administration, such person or persons, body politic or corporate, may enter an appeal from such judgment or sentence, to the first day of the next court of the district, in which such county is.

SECT. LXXXVIII. THE party praying a writ of *superfedeas*, shall petition the District Court for the same, pointing out the errors he means to assign in the proceedings, and procure some attorney practising in such courts respectively, to certify, that in his opinion, there is sufficient matter of error, for reversing the judgment, whereupon such courts in their session, or any Judge of such courts respectively in vacation, may order such writ to be issued, or reject the petition, as to them shall seem just, but no *superfedeas* shall be issued in any case, except such as in respect to its value or nature, would have admitted of an appeal.

SECT. LXXXIX. WRITS of error or *superfedeas*, may be granted by the District Court to any judgment of the county court, above the value of ten pounds or one thousand pounds of tobacco.

SECT. XC. BEFORE granting any appeal, or the issuing of any writ of error or *superfedeas*, the party praying the same, shall enter into bond with sufficient security, in a penalty to be fixed by the Court or Judge granting the same, with condition to pay the amount of the recovery, and all costs and damages awarded, in case the judgment or sentence be affirmed. Where several appeal, or obtain a writ of error or *superfedeas*, bond and security given by any party shall be sufficient.

SECT. XCI. IF upon hearing any writ of error or *superfedeas*, the judgment of the inferior court be reversed in whole or in part, the District Court shall enter such judgment thereupon, as ought to have been entered in the inferior court.

SECT. XCII. BONDS to be given in court for obtaining writs of error, *superfedeas*, *certiorari*, appeals, or any other cause, shall be valid and sufficient if given by a responsible person and security, although the party interested in the event of the suit be not an obligor.

SECT. XCIII. WHERE the defendant in any personal action appeals, or obtains such writ of error or *superfedeas*, if the judgment be affirmed, the damages besides costs shall be ten *per centum per annum*, upon the principal sum and costs, recovered in the inferior court, in satisfaction of all damages or interest.

SECT. XCIV. IN real or mixed actions the damages shall be ten pounds, or two thousand pounds of tobacco, besides costs, and where the plaintiff appeals in any action, if the judgment be affirmed, and in all controversies about mills, roads, probat of wills, or certificates for administration, if the sentence of the inferior court be affirmed, the party appealing shall pay to the other all costs.

SECT. XCV. WHEN any person not being a slave, shall be charged before a Justice of the Peace with any criminal offence, which in the opinion of such Justice ought to be examined into by the county court, the said Justice shall take the recognizance of all material witnesses to appear before such county court, and immediately by his warrant commit the person so charged to the county jail, and moreover shall issue his warrant to the sheriff of the county, requiring him to summon the Justices of the county to meet at their courthouse on a certain day, not less than five nor more than ten days after the date thereof, to hold a court for the examination of the fact, which court shall consider whether, as the case may appear to them, the prisoner may be discharged from further prosecution, may be tried in the county or must be tried in the District Court; and if they shall be of opinion that the fact may be tried in the county, the prisoner shall be bound over to the next Grand-Jury to be held for that county for trial, or upon refusing to give sufficient bail, shall be remanded to the county jail, there to remain until such court, or until he or she shall be bailed; but if they shall be of opinion that the prisoner ought to be tried in the District Court, they shall take the depositions of the witnesses, and bind such, as they shall think proper,



proper, by recognizance, to appear and give evidence against such criminal at his or her trial, and having remanded the prisoner to jail, any two of the Justices, one being of the quorum, by warrant under their hands and seals, shall direct the Sheriff or his deputy to remove the prisoner and commit him or her to the District jail, there to be safely kept until he or she shall be discharged by due course of law; by virtue of which warrant the Sheriff, as soon as may be, shall remove the prisoner and deliver him or her with the warrant to the Keeper of the District jail, who shall receive and safely keep him or her accordingly. And for enabling the Sheriff safely to convey and deliver such prisoner, the said two Justices, by their warrant, shall empower him, as well within his county, as without, to impress such and so many men, horses, and boats, as shall be necessary for the guard and safe conveyance of the prisoner, proceeding therein as the law may direct in cases of impressing on other occasions; and all persons are to pay due obedience to such warrant. PROVIDED, that if such prisoner shall, in the opinion of the Court, be bailable by law, he or she shall not be removed within twenty days after the examining Court, but shall and may be admitted to bail before any Justice of the same county within that time, or at any time afterwards, before any Judge of the General Court.

SECT. XCVI. A PUBLIC Jailor shall be appointed to each District by the Governor and Council, shall give bond and security to the Governor and his successors, as the Public Jailor in the city of *Richmond* now does, and shall be amenable to the Judges of such Court, in like manner as the Keeper of the Public Jail hath heretofore been to the Judges of the General Court. And the Judges attending each District Court shall have authority to superintend and regulate the District jail, in the same manner as the General Court had to regulate and superintend the Public jail.

SECT. XCVII. THE Jailor, during his continuance in office, shall be exempted from serving in the militia, and on juries, and shall have such allowance, over and above the fees, as by the General Assembly shall be thought reasonable.

SECT. XCVIII. THE keeper of the District jail shall constantly attend the said Court, and execute the command of the said Court, from time to time, and take or receive into his custody all persons by the Court to him committed on original or mesne process, or in execution in any civil suit, or for any contempt of the Court, and him or them safely keep until thence discharged by due course of law, and may demand of every such prisoner the legal fees for diet and care; but where such prisoner is so poor as not to be able to support him or herself in prison, the Jailor shall be allowed by the public one shilling, *per* day, for the maintenance of every such poor prisoner, and no security shall be demanded of him, or her, nor shall he, or she, be detained for such prison-fees.

SECT. XCIX. THE keeper of the District jail, by order of any two Justices of his county, may impress guards for the safe-keeping of all prisoners in his custody, to be paid by the public.

SECT. C. THE fee to the Sheriff of the county, and to the District Jailor, for keeping and dieting any such prisoner, shall be one shilling, *per* day.

SECT. CI. IF a prisoner shall desire any witnesses to be summoned for him or her to appear, either at the examining Court, or on the trial at the District Court, the Clerk of the said Court, or of the County Court (as the case may be) shall issue subpoenas for such witnesses, who, being summoned and attending, shall have the like allowance for travelling and attendance, and be subject to the same penalty for failing to attend, as is provided for witnesses in civil cases.

SECT. CII. WHEN any person shall be so removed to be tried for treason or felony, the Clerk of the county from whence the prisoner is removed, shall, immediately after the Court holden for his or her examination, transmit to the Attorney for the Commonwealth in the District Court, a copy of the warrant for his or her commitment, and of the depositions taken on the examination, and shall moreover issue a writ of *venire facias* to the Sheriff of the county, commanding him to summon twelve good and lawful men, being freeholders of the county, residing, as near as may be, to the place where the fact is alledged to have been committed, to come before the District Court on the first day of its next session, and return a pannel of their names; which freeholders, or so many of them as shall appear, not being challenged, together with so many other good and lawful freeholders of the bystanders, as will make up the number twelve, shall be a lawful jury for the trial of such prisoner.

SECT. CIII. EVERY *venire*-man summoned and attending the District Court, shall have the same allowance for travelling and attendance, as is herein provided for witnesses, to be paid by the public.

SECT. CIV. IF any person summoned as a *venire*-man, shall fail to attend accordingly, not having a reasonable excuse, to be made at the time he should have appeared, or at the next District Court, every such person may be fined by the Court, not exceeding forty shillings, or four hundred pounds of tobacco, for the use of the Commonwealth.

SECT. CV. THE Clerk of the District Court shall, in a book by him kept for that purpose, enter the names of all the *venire*-men and witnesses who attend for the trial of criminals at such Court, the number of days each shall attend, the ferries they shall have crossed, and the distances they shall have travelled on that occasion, and shall give certificates for the same, which shall be paid in the manner directed by law.

SECT. CVI. THE Sheriff for the time being of the county, in which the District Court is holden, shall, before every meeting of the District Court, summon twenty-four freeholders of the District, qualified as the laws require for grand jurors, to appear at the succeeding District Court, on the first day thereof, which the said Sheriff is hereby empowered to do, as well without his county, as within the same; and the said twenty-four men, or any sixteen of them, shall be a grand jury, and shall enquire of, and present, all treasons, murders, felonies, or other misdemeanors whatever, which shall have been committed or done within the District; and upon any indictment for a capital offence being found by a grand jury to be true, against any person or persons, the Judges shall cause such person or persons to be immediately arraigned and tried by a petit jury, summoned as herein before directed; and he, she, or they, being found guilty, pass judgment as the laws direct, and thereupon award execution, and if the prisoner shall be found not guilty, to acquit him or her of the charge. PROVIDED, that in all trials, the defendant shall be allowed counsel; and that, when sentence shall be passed upon any prisoner, there shall be one calendar month at least between the judgment and execution. PROVIDED ALSO, that in case of the sickness, death, or non-attendance of any grand juror or grand jurors, after he or they shall be sworn, it shall be lawful for the Court to cause others to be sworn in his or their stead.

SECT. CVII. NO grand jury shall make any presentment of their own knowledge, upon information of fewer than two of their own body, nor where the penalty inflicted by law is less than twenty shillings or two hundred pounds of tobacco.

SECT. CVIII. EVERY person summoned to appear on a grand jury, and failing to attend, not having a reasonable excuse, shall be fined by the Court, not exceeding four hundred pounds of tobacco, to the use of the Commonwealth.



SECT. CIX. UPON presentment made by the grand jury of an offence not capital, the Court shall order the Clerk to issue a summons, or other proper process against the person or persons so presented, to appear and answer such presentment at the next Court, and thereupon hear and determine the same according to law.

SECT. CX. IT shall be the duty of the Attorney General to nominate and appoint proper persons to prosecute for the Commonwealth, in such Courts as he cannot attend himself.

SECT. CXI. PRISON rules and bounds shall be assigned by the District Courts.

SECT. CXII. WHERE the prisoner shall be convicted, and hath estate sufficient to pay the charges of prosecution, the whole shall be paid out of such estate, and the public only made chargeable where there is no estate, or not sufficient to be found.

SECT. CXIII. IF any criminals sent for trial to the General Court shall not have been tried at their session in December, one thousand seven hundred and eighty-eight; or if any criminals so sent from the County Court, or shall hereafter be sent for trial to the General Court, it shall be lawful for the Executive, upon application of the Attorney General, to cause such criminals to be sent to the District from whence they came. PROVIDED ALWAYS, that it shall be lawful for any Judge of the General Court to admit such criminals to bail for their appearance at the District Court, in all cases bailable by law.

SECT. CXIV. THE several suits which shall be depending in the General Court at the time of the commencement of this act (except appeals, writs of error, or *superfedeas*, and such others wherein there shall be a special verdict, case agreed, motion in arrest of judgment, or point of law reserved) shall be arranged by the Clerk thereof to the Districts of the counties wherein the original writs or process were respectively served, according to the directions of this act, and with the papers therein, and a state of the costs to that time in each, as well of plaintiff as defendant, delivered to the several Clerks of the Districts to which they respectively belong, who shall docket the same according to the order of priority of commencement, those at issue, or in which writs of enquiry are to be executed on the Court docket to be tried at the next District Term, and all others on his rule-docket, to be proceeded in at the rules as is herein before directed for original suits, regarding the progress made therein at the time.

SECT. CXV. THE sessions of the General Court shall be holden at the capitol in the city of *Richmond*, and shall begin on the ninth day of *June*, and the ninth day of *November*, in each year, or when either of those days happen to be *Sunday*, then on the next day, and shall continue sixteen juridical days each, unless all the business before them be sooner dispatched.

SECT. CXVI. THREE Judges shall constitute a General Court, except in the case of impeachment, on which occasion, a majority of the whole number shall be necessary.

\* SECT. CXVII. THE said General Court shall continue to have jurisdiction over all causes depending therein at the commencement of this act, by appeal, writ of error, *superfedeas*, or *mandamus*, or *scire facias* on judgments therein, or in which there hath been a special verdict, case agreed, errors assigned in arrest of judgment, demurrer to evidence, or point of law reserved, but in none other of the suits so depending, which shall be sent to and tried in the respective District Courts as is herein before directed: And that writs of *scire facias* may be issued from, and tried in the General Court, upon all judgments which have been or shall be obtained therein, the said Court may fine Sheriffs, Deputy Sheriffs, or Coroners, for not returning executions issued, or to be issued from the said Court, and enter up judgments against the said officers for all money or tobacco for which they have made, or shall make themselves respectively liable by law to judgments upon such executions; may award executions upon replevy bonds, or bonds to have goods forthcoming at the day of sale, if by law such bond shall continue to be authorized; may quash executions as illegally or improvidently issued or executed, and award new ones; or finally may exercise full jurisdiction in every other legal mode necessary for carrying into complete execution all judgments heretofore given, or hereafter to be given, in the said Court, in like manner as if this act had never been made. The said Court shall also have power to issue writs of *mandamus* to the District Courts. But no original suit shall, after the commencement of this act, be brought in the said General Court, nor shall the said Court exercise any power, jurisdiction, or authority, in any causes, civil or criminal, except what is by this act, or may, by law, be expressly given to the said Court, motions, suits, and other proceedings, now depending, or that may be hereafter brought by the Solicitor against public debtors, and public defaulters of every denomination, for and on behalf of the Commonwealth; and the cases of impeachment directed by the constitution or form of government to be tried in the General Court.

SECT. CXVIII. IF at the commencement of the District Courts, a common order shall have been confirmed, but shall not have been made final, it may be set aside on the usual terms, on the third day of the succeeding General Court: If it be not set aside, it shall be considered as a judgment obtained before the commencement of the District Courts. The General Court shall also at any time rectify any improper dismissals in their own Court, or the office of their Clerk, and shall send any suit which may be reinstated, to the proper District. The General Court shall also direct to what Districts those suits shall be sent in which writs were not served, or were not directed to any Sheriff; having regard, as far as can be ascertained, to the residence of the defendant. The said Courts shall have the same power to issue commissions for examining witnesses respecting any matter depending before them, as is hereby given to the District Courts. Writs of execution, *scire facias*, or other legal process, sued out of the General Court, shall be returnable to the first day thereof.

SECT. CXIX. FOR good cause shewn, the General Court may direct a trial by jury at their own bar of any cause depending before a District Court, for which purpose they may order the Sheriff, or any other officer attending them, to summon a jury, qualified as the law now directs in the cases of juries in the General Court.

SECT. CXX. FOR good cause shewn, the General Court may change the venue in any suit depending in the District Courts.

SECT. CXXI. IF a Judge allotted to a District Court be interested in the event of any suit, the General Court shall, upon application to them made, change the venue and cause a trial at bar.

SECT. CXXII. IF before the commencement of this act, any appeal or *superfedeas* should be entered or obtained to a judgment or decree of any Inferior Court, the same shall be tried before the General Court, as the said Court shall be arranged under this act.

SECT. CXXIII. DEEDS partly proved in the General Court shall be retained there for full proof.

SECT. CXXIV. THE General Court shall retain jurisdiction over all wills, partly proved, or now under contest before them.

SECT. CXXV. TRAVERSES to inquisitions now depending in the General Court shall be retained and determined there.

SECT. CXXVI. ALL process awarded since the General Court in *October* last, and returnable to the said Court, all declarations, ejectment, and other things hereafter returnable to the General Court, shall continue to be returnable thereto. And the Clerk of the General Court upon his receiving the same, or if they should not



not be received before the first day of the next session of the said Court, shall distribute the causes and matters to which they belong, to the proper and respective Districts, according to the directions of this act.

SECT. CXXVII. A TAX of six shillings shall be, and is hereby, imposed on all final judgments in the District Court, which shall be paid by the party obtaining the same to the Clerk of the Court, before such judgment shall be entered, and taxed in the bill of costs; and in all other respects, the tax on process in the District Courts, shall be the same, and be taxed in the bill of costs in like manner, as is by law directed concerning process in the General Court; and the taxes on deeds, wills, and administrations, and on appeals from the District Courts, and also on Attornies practising therein, shall be the same; to be collected, accounted for, and paid, by the Clerks, respectively, in like manner, and subject to the same mode of proceeding against them for default, as is directed for the like taxes in the County Courts.

SECT. CXXVIII. NO person shall be found guilty on an impeachment but by a jury; for which purpose the Clerk of the said Court, as soon as such impeachment shall be notified to him by the Attorney General, or any other person or persons appointed by the House of Delegates to prosecute the same, shall issue a *venire facias* to the Sheriffs of the Senatorial District, wherein the person accused resides; commanding them to summon in their counties to the first day of the next succeeding Court of Appeals, in proportions as nearly equal as possible, twenty-four jurors, qualified according to law for the trial of other criminal cases; which process may be repeated by order of the Court as often as it shall be necessary. The prosecutor for the Commonwealth, and the person accused, shall, in open Court, alternately strike one, until the number shall be reduced to twelve; which remaining twelve shall be a jury, and shall try the impeachment, render a verdict, and proceed in the same manner, as is prescribed in the case of an indictment in the General Court. The jurors, who shall attend on summons, shall have the same allowance, and be subject to the like penalties, as in the case of venire-men attending the District Courts. If twenty-four jurors should not appear, bystanders may be summoned to make up the deficiency. The party accused may have one or more counsel, without petitioning the said Court.

SECT. CXXIX. NO impeachment shall be tried during the session of the General Assembly, unless the party accused shall request it.

SECT. CXXX. IT shall be lawful for any person impeached to challenge, for good cause, any juror, either before or after the names shall be struck.

SECT. CXXXI. IF a majority of the Judges of the General Court be interested in any suit, which, in the case of any other person, would have been proper for the jurisdiction of such Court, it may be lawful to institute such suit under this act in the High Court of Chancery, where proceedings shall be had conformably to the rules of the General Court; and process shall be returnable as the High Court of Chancery shall direct; and thereafter an appeal may be entered to the Court of Appeals.

SECT. CXXXII. THE Clerk of each District Court shall, annually, before the last day of January, transmit to the Sheriff of each county within the District, a list of all fines imposed by the District Court, in the year next preceding, to the use of the Commonwealth, on persons residing in such county; and the Sheriffs shall, respectively, proceed to collect, levy, account for, and pay, the same in like manner, and subject to the same remedy and proceedings against them for default, as is or shall be directed in case of public taxes, being allowed in their accounts for insolvents, and five *per centum* commissions; and the said Clerks shall severally transmit copies of such lists to the Solicitor General, to enable him to call the Sheriffs to account.

SECT. CXXXIII. AN act passed at the October session, one thousand seven hundred and eighty-seven, intituled, "*An act establishing District Courts*," and so much of all former laws as is contrary to this act, shall be, and the same is, hereby repealed.

## C H A P. LXVIII.

### An ACT for amending the Act, intituled, "An act constituting the COURT of APPEALS."

[Passed the 22d of DECEMBER, 1788.]

SECTION I. **B**E it enacted by the General Assembly, That the Court of Appeals shall consist of five Judges, who shall be chosen from time to time, by the joint ballot of both Houses of Assembly, shall be commissioned by the Governor, and shall, respectively, continue in office during good behaviour.

SECT. II. ANY three of the said Judges shall constitute a Court.

SECT. III. The said Court shall be holden at the Capitol in the city of *Richmond*, or at such other place, as shall be appointed by the General Assembly, or in their recess, by the Governor, with the advice of the Council of State, on any such emergency, as will make the adjournment of any other of the Supreme Courts lawful.

SECT. IV. The said Court shall be holden twice in every year, namely, on the twentieth day of *June*, and the twentieth day of *November*, or when that shall happen to be *Sunday*, on the succeeding day, and shall sit each time until the business depending before them shall be dispatched.

SECT. V. NO person shall be found guilty on an impeachment, but by a jury; for which purpose the Clerk of the said Court, as soon as such impeachment shall be notified to him by the Attorney-General, or any other person or persons appointed by the House of Delegates to prosecute the same, shall issue a *venire facias* to the Sheriffs of the Senatorial District, wherein the person accused resides, commanding them to summon in their counties, to the first day of the next succeeding Court of Appeals, in proportions as nearly equal as possible, twenty-four jurors, qualified according to law for the trial of other criminal cases, which process may be repeated by order of the Court as often as it shall be necessary. The prosecutor for the Commonwealth, and the person accused, shall, in open Court, alternately strike one, until the number shall be reduced to twelve; which remaining twelve shall be a jury, and shall try the impeachment, render a verdict, and proceed in the same manner, as is prescribed in the case of an indictment in the General Court. The jurors shall have the same allowance, and be subject to like penalties, as in the case of venire-men attending the District Courts. If twenty-four jurors should not appear, bystanders may be summoned to make up the deficiency.

SECT. VI. A person impeached, may for good cause, challenge a juror. The party accused may have one or more counsel, without petitioning the said Court.

SECT. VII. NO impeachment shall be tried during the session of the General Assembly, unless the party accused shall request it.

SECT. VIII. IF a vacancy shall happen in the office of Clerk out of the Terms of the said Court, it shall be lawful for a majority of the Judges by commission under their hands and seals, to appoint.

SECT.



SECT. IX. IF any one of the Judges of the Court of Appeals be interested in any suit finally decided in the High Court of Chancery, an appeal, if prayed for, shall be to the General Court. If such Judge be interested in any suit finally decided in the General Court, such appeal shall be to the High Court of Chancery; and in either case the decision of the High Court of Chancery, or General Court, shall be final in any suit now depending or which may hereafter be brought in the District Court of *Kentucky*, in which either of the Judges of the said Court shall be interested, and without whose opinion there cannot be a decision therein; the Court shall adjourn all matters in law and equity arising in such suit, to the Superior Court of Appeals of this Commonwealth, whose judgment shall be final therein.

SECT. X. WHERE several obtain an appeal, writ of error, or *superfedeas*, to or from any judgment of a District Court, bond given by any party shall be sufficient.

SECT. XI. NOTHING in this act contained shall be construed in any manner to affect any suits now depending before the said court; or any decree, judgment, sentence, or order hitherto given therein; but the same shall remain as if this act had never been made. PROVIDED ALWAYS, that the suits now depending before the said court, shall be finally decided by the Court of Appeals, as it is now constituted by law. For which purpose they shall hold a Term at the Capitol in the city of *Richmond*, on the second day of *March* next, and shall sit until the same shall be concluded. If, however, the Court of Appeals shall think it advisable from any reason, which may prevent an immediate decision, to adjourn to another day, it shall be lawful for them so to do. But the adjournment of the said court for the purpose of finishing the old business, shall not affect or retard the jurisdiction of the said court as it shall stand under this act. The Judges of the Court of Appeals appointed under this act, may take the oath of fidelity and of office, before the Executive, or any Justice of the Peace, a certificate whereof shall be recorded in the said Court.

SECT. XII. THE several acts of the General Assembly concerning the Court of Appeals, as it is at present constituted, shall be pursued and observed, *mutatis mutandis*, as far as it is not, or shall not, be otherwise directed by this or a future act or acts. PROVIDED ALWAYS, that appeals, writs of error, and *superfedeas*, may be granted, heard, and determined by the Court of Appeals to and from any final judgment given in the District Courts, in the same manner, and on the same principles, as appeals, writs of error, or *superfedeas*, are to be granted, heard, and determined by the District Courts, to and from any final judgment given in the County Courts.

SECT. XIII. So much of any act or acts of Assembly, as comes within the purview of this act, shall be, and is, hereby repealed.

SECT. XIV. This act shall commence, and be in force on the first day of *January*, in the year of our Lord, one thousand seven hundred and eighty-nine.

## C H A P. LXIX.

### *An ACT for amending the several Acts of the General Assembly, concerning the HIGH COURT of CHANCERY.*

[Passed the 22d of DECEMBER, 1788.]

SECTION I. **B**E it enacted by the General Assembly, That as soon as a sufficient number of vacancies shall take place to permit the reduction of the present number of Judges in the High Court of Chancery, the said Court shall consist of one, who shall either be one of the present Judges, or shall be chosen from time to time, by the joint ballot of both Houses of Assembly, shall be commissioned by the Governor, and shall continue in office during good behaviour.

SECT. II. THE said Court shall be holden at the Capitol in the city of *Richmond*, or at such other place, as shall be appointed by the General Assembly, or, in their recess, by the Governor, with the advice of the Council of State, on any such emergency, as will make the adjournment of any other of the Supreme Courts lawful.

SECT. III. THE said Court shall be holden four times in every year, namely, on the first day, or when that shall happen to be *Sunday*, on the second day of *March*; on the twelfth day, or when that shall happen to be *Sunday*, on the thirteenth day of *May*; on the first day, or when that shall happen to be *Sunday*, on the second day of *August*; on the twelfth day, or when that shall happen to be *Sunday*, on the thirteenth day of *October*; and the sessions in the months of *May* and *October* shall continue for twenty four juridical days successively, and those in the months of *March* and *August*, for twelve juridical days successively, unless the business depending before the said Court, shall be sooner dispatched.

SECT. IV. IT shall be lawful for the said Court to arrange the business thereof, in the most convenient and equitable manner.

SECT. V. IT shall be lawful for the High Court of Chancery in such cases, as may require a report, which cannot be performed by the Court without great delay to other business, to employ one or more Commissioners, and to cause a reasonable allowance to be taxed in the bill of costs.

SECT. VI. THE High Court of Chancery may grant commissions for the taking of depositions beyond the limits of this Commonwealth.

SECT. VII. IF the Judge of the High Court of Chancery shall be interested in any matter, which in the case of any other person would have been proper for the jurisdiction of such Court, it may be lawful to institute such suit under this act in the General Court, where proceedings shall be had conformably to the principles and usages of equity; and process shall be returnable as the General Court shall direct, and thereafter an appeal may be had to the Court of Appeals.

SECT. VIII. IT shall be lawful for the High Court of Chancery to send any matter of law to the General Court, for their opinion to be certified thereon.

SECT. IX. IF the Judge shall not attend on the first day of the Term, such Court shall stand adjourned from day to day, until a Court shall be made, if that shall happen before four of the clock in the afternoon of the sixth day.

SECT. X. IF a Court shall not sit in any Term, or shall not continue to sit the whole Term, or before the end of the Term, shall not have heard and determined all matters ready for its decision, all such suits and things depending in Court and undecided, shall stand continued to the next succeeding Term. If from any cause the Court shall not sit on any day in a term after it shall have been opened, there shall be no discontinuance. Put



so soon as the cause is removed, the court shall proceed to business until the end of the term, if the business depending before it be not sooner dispatched.

SECT. XI. SO much of every act as comes within the purview of this act, is hereby repealed.

SECT. XII. THIS act shall commence in force on the first day of *January* one thousand seven hundred and eighty-nine.

C H A P. LXX.

*An ACT allowing travelling expences to the JUDGES of the GENERAL COURT.*

[Passed the 23<sup>d</sup> of DECEMBER, 1788.]

SECTION I. **B**E it enacted by the General Assembly, that in consideration of the additional services, to be performed by the Judges of the General Court as Judges of the District Courts, they shall receive (exclusive of their salaries, established by law) each, the sum of six pence per mile for travelling to and from the courts of their respective circuits. The Treasurer shall half yearly advance to each of the said Judges upon the allowance hereby made to them, a sum for travelling expences, not exceeding twenty five pounds; to be accounted for by them respectively.

C H A P. LXXI.

*An ACT concerning the COURT of ADMIRALTY, and the JUDGES thereof.*

[Passed the 25<sup>th</sup> of DECEMBER, 1788.]

SECTION I. **W**HEREAS by the Constitution for the United States of America it is, among other things provided, that the Judicial power thereof shall extend to all cases of Admiralty and maritime jurisdiction; and *Richard Cary, James Henry, and John Tyler, Esquires*, Judges of the Court of Admiralty within this commonwealth, have been appointed Judges of the General Court, and are intitled to the emoluments of office, as such: *BE it enacted by the General Assembly*, that from and after the passing of this act, the salaries allowed by law to the said Judges, shall be discontinued.

SECT. II. FROM and after the first *Wednesday* in *March*, which shall be in the year of our Lord one thousand seven hundred and eighty nine, the said Court of Admiralty shall be also discontinued.

SECT. III. BUT nothing contained in this act or in the act, intituled "*An act establishing District Courts, and regulating the General Court*," shall be construed to transfer any matter, or thing, now cognizable in the said Court of Admiralty, to the District Courts, until the first *Wednesday* in *March*, in the year aforesaid. And every cause, suit, process, matter, or thing, depending in the said court at the passing of this act, or the above recited act, or which may be brought therein, before the day and year aforesaid, shall be proceeded in, heard, determined, executed, and concluded according to the same principles, rules, forms, and manner, as would have prevailed had this act, or the above recited act, never been made.

SECT. IV. ALL acts, and parts of acts, concerning the Court of Admiralty and the Judges thereof, except so much of the said acts, as is retained and continued by the above recited act, shall be, and are hereby repealed.

C H A P. LXXII.

*An ACT concerning the GENERAL COURT.*

[Passed the 25<sup>th</sup> of DECEMBER, 1788.]

SECTION I. **W**HEREAS three of the Judges of the General Court, to wit: *Paul Carrington, Peter Lyons, and William Fleming, Esquires*, have been appointed Judges of the Court of Appeals during the present session of the General Assembly, and it is inexpedient that the said General Court should consist of more than ten Judges, *BE it enacted by the General Assembly*, that from and after the passing of this act, there shall be ten Judges only of the said General Court, who are to be allotted to the District Courts. That any three of the said ten shall constitute a General Court in all cases, except those of impeachment, and that in cases of impeachment, a majority only shall constitute a General Court.

SECT. II. AND in order that no doubts may arise as to the holding District Courts in the months of *April* and *May* next, *BE it further enacted*, That the allotment of Judges to the several District Courts shall be made without delay, and such allotment may be recorded at any future General Court; any thing in any act notwithstanding. *PROVIDED* always, that the clerk of the General Court may continue to issue original process for the commencement of any suit in the General Court until the first day of *February*, one thousand seven hundred and eighty nine, and returnable to the first court which shall be holden for the district in which the defendant resides, under the same regulations and provisions as prescribed before the passing of the above recited act, and every such suit shall be sent to its proper district, according to the directions of the said act.

C H A P. LXXIII.

*An ACT directing at what places the SUPERIOR and COUNTY COURTS shall be holden, if the courthouses appointed by law should be destroyed.*

[Passed the 22<sup>d</sup> of DECEMBER, 1788.]

SECTION I. **B**E it enacted by the General Assembly, that it shall be lawful for the Executive whensoever any building or buildings duly appointed for the holding of any court shall be destroyed, by proclamation to direct such court to be holden in any other building or buildings until the buildings or building so destroyed



destroyed shall be rebuilt. *PROVIDED* always, That the Court of Appeals, High Court of Chancery and General Court, shall continue to be holden in the city of *Richmond*, the District Courts in the counties in which they are appointed to be holden by law, and the county courts within their respective counties.

## C H A P. LXXIV.

*An ACT for granting relief to SHERIFFS and COLLECTORS of the PUBLIC REVENUE in certain cases.*

[*Passed the 26th of DECEMBER, 1788.*]

SECTION I. **W**HEREAS it hath been represented to the present General Assembly, that many counties in the commonwealth have been disabled to pay their taxes by accidents and distresses, which could not be avoided; but it is the duty of the Legislature carefully to distinguish such as ask indulgence for the reasons aforesaid, from those, whose pretensions to relief are not well founded: AND WHEREAS many sheriffs indebted to the commonwealth for taxes actually received, have failed to account for the same according to law, from a hope of relief, which, after a given day, ought to be taken away; *BE it enacted by the General Assembly*, that every sheriff, collector, and his security or securities, indebted to the commonwealth for taxes, which became due prior to the first day of *November*, in the year of our *Lord* one thousand seven hundred and eighty-eight, and against whom no judgment hath been or shall be obtained before the passing of this act, may discharge the same on or before the first day of *June*, which shall be in the year of our *Lord* one thousand seven hundred and eighty nine, by the payment of the principal sum, agreeable to the laws under which he shall have collected it, although judgment shall be obtained against him before the said first day of *June* in the year last mentioned; and the Solicitor is hereby instructed to proceed without delay in obtaining judgments against such sheriffs or collectors, and shall issue executions thereupon immediately after the said first day of *June*: *PROVIDED* always, that it shall not be lawful for the Executive to suspend such execution, or to remit any part of the damages or interest on such judgment, which shall remain unpaid after the said first day of *June*.

SECT. II. EVERY sheriff, collector, and his security or securities indebted to the commonwealth for taxes, which became due prior to the first day of *November* one thousand seven hundred and eighty eight, against whom judgment hath been or shall be obtained before the passing of this act, may discharge the same by payment of the principal sum, agreeable to the laws under which he shall have collected it, together with *six per centum* interest and costs on or before the said first day of *June*.

SECT. III. WHERE no execution hath been issued on such judgments none shall be issued, until after the said first day of *June*.

SECT. IV. WHERE an execution hath been issued, the sheriff shall return the same, and it shall be considered in the same manner as an execution would be, where no estate was found; and the Solicitor is hereby instructed to issue executions against such sheriffs or collectors immediately after the said first day of *June*: *PROVIDED* always that it shall not be lawful for the Executive to suspend such execution or to remit any part of the damages or interest on such judgment, which shall remain unpaid after the said first day of *June*; *PROVIDED* also that any payments, which shall be made by a sheriff or collector, on or before the said first day of *June*, shall be deducted from any judgment, and damages shall abate in proportion; *PROVIDED* also, that where the Executive shall have reason to believe that the postponement of an execution to the said first day of *June*, might put the debt in danger, it shall be lawful for them to make a special direction for the issuing thereof, and the same shall issue accordingly. But the sheriff, collector, and his security or securities shall be intitled to the same privileges, in consequence of any payment made under the said execution, as if it had been made before the said first day of *June*, and without an execution issued: *PROVIDED* also, that nothing in this act contained shall be construed to prevent or restrain any sheriff from proceeding against his deputy, or any security from proceeding against his principal, in the same manner as if this act had never been made.

SECT. V. AND WHEREAS it is just and expedient that securities should have the same rights and remedy against the lands of their principals, as the commonwealth would have had, but for the proceeding against such securities; *BE it further enacted*, that wheresoever the lands of any sheriff or collector would have been bound for any debt due to the commonwealth, they shall be bound in like manner to the security or securities, who may have paid the whole or a part of such debt; and it shall be lawful for the General Court to award a like execution against the said lands, on the motion of such securities, to that which would have been issued in behalf of the commonwealth. But ten days previous notice of such motion, shall be given to the principal, his heir or devisee, as the case may be.

SECT. VI. IF upon the death, refusal to act, or disability of any sheriff, it shall appear proper to the Executive to appoint a collector, it shall be lawful for them to make such appointment, and the person so appointed collector shall possess every power and be liable to every penalty which the sheriff himself would have possessed, or been liable to.

## C H A P. LXXV.

*An ACT concerning the TAXES due in the county of KING WILLIAM, for the year one thousand seven hundred and eighty seven.*

[*Passed the 27th of DECEMBER, 1788.*]

SECTION I. **W**HEREAS it is represented that *John Hickman*, sheriff of the county of *King William*, departed this life some time in the month of *March* last, without having given bond and security for the collection of the taxes due in the said county for the year one thousand seven hundred and eighty seven



seven; and that *Holt Richeson*, a deputy sheriff to the said *John Hickman*, is willing to undertake the collection thereof in case a reasonable time is allowed him to perform the same. *BE it therefore enacted by the General Assembly*, That the said *Holt Richeson*, upon giving bond and security in the court of the said county of *King William*, in the penalty required by law for collectors, shall be, and he is hereby vested with as full power to collect and distrain for the taxes due in the said county for the year one thousand seven hundred and eighty seven, as if he had been sheriff thereof at the time they were payable; and the said *Holt Richeson* is hereby allowed until the first day of *September* next to complete the collection of the taxes in the said county for the year one thousand seven hundred and eighty seven; and if he shall fail to make payment thereof into the public treasury on or before the said first day of *September*, it shall and may be lawful for the Solicitor to move for judgment against him or his securities at the next General Court, or any other session of the said court subsequent to such failure.

SECT. II. THE said *Holt Richeson* shall in all cases respecting the collection of the said taxes, be entitled to the same emoluments and shall be subject to the like penalties and damages as directed in the case of sheriffs and collectors by the several laws for collecting the revenue of this state. *PROVIDED always*, That if the said *Holt Richeson* shall fail to give such bond and security as by this act is required at some court to be holden for the said county of *King William*, on or before the first day of *March* next, it shall be lawful for the Executive to appoint some fit and proper person within the said county to collect the taxes aforesaid, subject to the like rules regulations and penalties, as are by law provided for securing the collection of the public revenue.

C H A P. LXXVI.

*An ACT to amend the act for regulating the rights of CITIES, TOWNS, and  
BOROUGHs, and the jurisdiction of CORPORATION COURTS.*

[Passed the 30th of DECEMBER, 1788.]

SECTION I. **W**HEREAS it is represented to the General Assembly that the act, intituled "*An act for regulating the rights of cities, towns, and boroughs, and the jurisdiction of corporation courts*"; ought to be so extended to the Courts of Hustings of the city of *Williamsburg* and borough of *Norfolk*, as to prevent any member of those courts from acting as a county magistrate: *BE it therefore enacted by the General Assembly*, that from and after the passing of this act no person being a member of any court of hustings and of a county court, shall be permitted to exercise both offices; but it shall be optional in such person to declare which of the offices he means to keep possession of: And his election being made known at the first court for the county or corporation which he shall attend, shall be entered of record, and his seat in the county or corporation court, as the case may be, shall thereupon be deemed vacated.

SECT. II. *AND be it also enacted*, that no person holding both offices, shall exercise the power of either until his determination or choice be entered of record as before recited: *PROVIDED*, that nothing in the before recited act shall be construed to affect the jurisdiction of the courts of hustings of the city of *Williamsburg*, or borough of *Norfolk*, or either of them, or in any wise to affect the rights or privileges of the common-councilmen of the city of *Williamsburg*, or borough of *Norfolk* as heretofore exercised.

C H A P. LXXVII.

*An act to amend the act directing the mode of proceeding under certain EXECUTIONS.*

[Passed the 29th of DECEMBER, 1788.]

SECTION I. **W**HEREAS many doubts have arisen in the construction of the act intituled *An act directing the mode of proceeding under certain executions*, and the same ought to be explained and amended: *BE it enacted by the General Assembly*, that from and after the passing of this act, the above recited act shall be amended, construed, and expounded as follows, that is to say: wheresoever, on a sale under any execution, the amount of such sale shall exceed the principal, interest and costs, the sheriff or coroner, as the case may be, shall take a separate bond, with sufficient security, from the buyer or buyers, for the payment of such excess or surplus, to the debtor with legal interest, at the end of twelve months from the date thereof, and it shall be expressed in the said bond, that it was given for a surplus or excess as aforesaid.

SECT. II. THE sheriff or coroner, as the case may be, shall deliver every bond so taken, to the debtor, his agent, attorney, or other legal representative, or shall return it to the clerk's office; and it shall have the force of a judgment, be assignable, and shall be proceeded on, in all things concerning the same, in like manner as is prescribed in case of bonds given to a creditor under the said act. *PROVIDED always*, that a sheriff or coroner making an unreasonable seizure, shall be liable to be sued, as if this act had never been made.

SECT. III. IF the sheriff or coroner as the case may be, shall fail to deliver or return, as aforesaid, any bond taken by virtue of this act, within thirty days from the date thereof, he shall be liable to the same penalty for every month of such failure, to be recovered in the same manner, as is directed by law against a sheriff or coroner failing to return an execution.

SECT. IV. THE sheriff or coroner, as the case may be, shall be allowed for taking the bonds to the creditor, thirty pounds of tobacco, and no more; for proceeding to sale if the property be actually sold or the debt paid, the commission of five *per centum* on the first twenty pounds or two thousand pounds of tobacco, and two *per centum* on all sums above that, and one half of such commission, where he shall have proceeded to sale and the defendant shall have replevied; and no other commission, fee or reward, shall be allowed upon any execution, except for the expence of removing and keeping the property taken.

SECT. V.



SECT. V. WHERESOEVER, upon the service of a *capias ad satisfaciendum*, slaves or personal estate shall be tendered under the above recited act, to the value of the debt or damages and costs, in the opinion of the sheriff or commissioners, who shall be forthwith summoned to value the same, the sheriff shall receive such slaves or personal estate, and thereupon discharge the debt or out of custody, if the slaves or personal estate so tendered shall not be sufficient to satisfy the debt or damages and costs, or shall be under any lien or incumbrance, so as that the whole or part cannot be sold, a new *capias ad satisfaciendum* or *feri facias*, at the option of the plaintiff, shall issue for any balance, and the clerk of the court, from which such execution originally issued, shall, upon the return of the sheriff, of the insufficiency or incumbrance as aforesaid, issue a new *capias ad satisfaciendum* or *feri facias*, if required. But where such slaves or personal estate shall have been under any lien or incumbrance, the debtor shall not be at liberty to tender slaves or personal estate, on a second *capias ad satisfaciendum* being served, or in the case of a *feri facias* issued in consequence of such return, to avail himself of the privileges of this or the said recited act.

SECT. VI. NO sheriff or other collector of clerks fees, shall avail himself of this or the above recited act.

SECT. VII. BONDS may still be given for the forthcoming of goods or other property at the day of sale, but if the condition of such bond shall not be complied with, and judgment shall be entered thereupon, the obligors shall be deprived of the benefit of this and the above recited act.

SECT. VIII. THE fee to the commissioners shall not exceed four shillings per day each, upon any number of executions whatsoever, and shall be paid by the creditor, his agent, attorney, or other representative, and shall be considered as part of the costs, and reimbursed to him accordingly.

SECT. IX. THE valuers shall make known in every case, to any person requiring the same, before or at the sale, the valuation by them made of the goods or other estate taken in execution.

SECT. X. UPON actual sale of any property under this or the said recited act, no principal debtor shall become the security.

SECT. XI. THE commissioners shall not be summoned upon any *feri facias*, the debt or damages whereof do not exceed ten pounds, unless the defendant, his agent, attorney, or other legal representative shall require the same; and where the commissioners shall not be summoned, and the debt or damages shall not exceed the sum aforesaid, the sale shall proceed and the sheriff shall possess and exercise the same power of valuation, as the commissioners would have possessed and exercised, had they been summoned, but shall receive no reward for such valuation.

SECT. XII. AND to prevent any doubts which may arise, *BE it further enacted*, That nothing in this act contained, shall be altered or in any manner affected by the act intituled *An act for establishing District Courts and for regulating the General Court*:

SECT. XIII. SO much of every act and particularly of the first recited act, as comes within the purview of this act, shall be, and is hereby repealed.

## C H A P. LXXVIII.

### *An ACT concerning certain PUBLIC ESTABLISHMENTS.*

[*Passed the 30th of DECEMBER, 1788*]

SECTION I. **W**HEREAS the operation of the Government of the United States will render it unnecessary to maintain several establishments, which at present exist under the laws of this commonwealth; *BE it enacted by the General Assembly*, that so soon as it shall be notified to the Executive by Congress, that measures have been by them taken concerning duties or imposts, all laws concerning naval officers, collectors of duties and searchers, and their salaries, and concerning duties and imposts of every denomination whatsoever, shall cease and determine; except the duty of six shillings per hoghead on tobacco exported, reserved for inspection duties.

SECT. II. THE Executive shall, upon receiving such notification, publish the same by proclamation, and shall inform all naval officers, collectors of duties and searchers thereof; the said naval officers, collectors of duties and searchers, shall thereupon make up their accounts at the end of the succeeding quarter, subject in case of failure to the same mode of recovery with other public debtors; and shall deliver up all their books and papers of office to the Solicitor or his order, and he is hereby required to cause them to be brought to his office, and to be there duly preserved at public expence.

SECT. III. THE Executive shall also, upon receiving such notification, cause the public boats *Liberty* and *Patriot* to be discontinued and sold, and all persons belonging thereto to be paid off and discharged.

SECT. IV. THE Executive shall also cause the post at the *Point of Fork* to be reduced, as far as is consistent with the safety and good order of the arms there deposited.

## C H A P. LXXIX.

### *An ACT concerning the TERRITORY ceded by this commonwealth to the UNITED STATES.*

[*Passed the 30th of DECEMBER, 1788.*]

SECTION I. **W**HEREAS the United States in Congress assembled, did on the seventh day of July, in the year of our Lord one thousand seven hundred and eighty six, state certain reasons shewing that a division of the territory which hath been ceded to the said United States by this commonwealth into states, in conformity to the terms of cession, should the same be adhered to, would be attended with many inconveniences; and did recommend a revision of the act of cession, so far as to empower Congress to make such a division of the said territory into distinct and republican states, not more than five, nor less than three in number, as the situation of that country, and future circumstances might require.

SECT.



And the said United States in Congress assembled, hath, in an ordinance for the government of the territory north west of the river *Ohio*, passed on the thirteenth of *July*, one thousand seven hundred and eighty-seven, declared the following as one of the articles of compact between the original States and the people and States in the said territory, viz: "That there shall be formed in the said territory not less than three nor more than five States, and the boundaries of the said States, as soon as *Virginia* shall alter her act of cession, and consent to the same, shall become fixed and established as follows, to wit: The Western State in the said territory shall be bounded by the *Mississippi*, the *Ohio*, and *Wabash* rivers; a direct line drawn from the *Wabash* and post *Vincents* due north to the territorial line between the United States and *Canada*; and by the said territorial line to the lake of the *Wood* and *Mississippi*: The middle State shall be bounded by the said direct line, the *Wabash* from post *Vincents* to the *Ohio*, by the *Ohio* by a direct line drawn due north from the mouth of the *Great Miami* to the said territorial line, and by the said territorial line: The Eastern State shall be bounded by the last mentioned direct line, the *Ohio*, *Pennsylvania*, and the said territorial line: PROVIDED HOWEVER, and it is farther understood and declared, that the boundaries of these three States shall be subject so far to be altered, that if Congress shall hereafter find it expedient, they shall have authority to form one or two States in that part of the said territory, which lies north of an east and west line drawn through the southerly bend, or extreme of lake *Michigan*: And whenever any of the said States shall have sixty thousand free inhabitants therein, such State shall be admitted by its Delegates into the Congress of the United States, on an equal footing with the original States in all respects whatsoever, and shall be at liberty to form a permanent constitution and State government; PROVIDED, the constitution and government so to be formed, shall be republican, and in conformity to the principles contained in these articles, and so far as it can be consistent with the general interest of the confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the State than sixty thousand:" And it is expedient that this Commonwealth do assent to the proposed alteration, so as to ratify and confirm the said article of compact between the original States and the people and States in the said territory; BE it therefore enacted by the General Assembly, that the afore recited article of compact between the original States and the people, and States in the territory north west of *Ohio* river, be, and the same is, hereby ratified and confirmed; any thing to the contrary, in the deed of cession of the said territory by this Commonwealth to the United States, notwithstanding.

## C H A P. LXXX.

## An ACT to amend the several LAWS for appropriating the PUBLIC REVENUE.

[Passed the 29th of DECEMBER, 1788.]

SECTION I. FOR appropriating the arrearages of revenue due for former years, and the revenue of the present year, BE it enacted by the General Assembly, That all arrearages which became due any time before the first day of *November*, in the year one thousand seven hundred and eighty-seven, under any act of the General Assembly whatsoever, shall still constitute the aggregate fund. The said aggregate fund shall stand charged with the payment of any sum of money, or quantity of tobacco, coming within the following descriptions, that is to say: First, All warrants which have been issued by the Auditor or Auditors on or before the thirty-first day of *December*, one thousand seven hundred and eighty-seven, and all votes of the General Assembly for the payment of money or tobacco, which passed during any session prior to that of *October*, one thousand seven hundred and eighty-seven; provided that such warrants or votes have been charged on any of the branches of revenue arising from the taxes so constituting the aggregate fund as aforesaid. Second, All votes of the General Assembly for the payment of money or tobacco, passed during the *October* session, one thousand seven hundred and eighty-seven, and not otherwise specially provided for. Third, All debts due to any agent of the Commonwealth for providing arms, cloathing, or other necessaries, and whose accounts have been settled, or shall be settled, in the manner hereinafter prescribed by the Executive, or any persons legally authorized to make such settlement. Fourth, All debts due to any persons for goods, wares or merchandises, supplied to the said agents, or any of them, on public account, and who, either have credit for the same on the public books of such agents, or any of them, or whose accounts shall be settled in the manner hereinafter prescribed by the Executive, or any persons legally authorized to make such settlement. Fifth, All warrants already issued and placed by the Executive on the aggregate fund in pursuance of the thirteenth section of the act, intituled, "An act to amend the laws of revenue, to provide for the support of civil government, and the gradual redemption of the debts due by this Commonwealth." Sixth, All warrants hereafter to be issued by the Auditor of Public Accounts, not coming within any of the descriptions aforesaid, for debts contracted prior to the first day of *January*, one thousand seven hundred and eighty-eight, and for which no funds have been assigned, but which the Executive, having regard to the merits and dignity of the claim, shall think it proper and necessary to place on the said aggregate fund. Seventh, All votes of the General Assembly passed before the present session, and not coming within any of the foregoing description of votes, for which no funds have been assigned, but which the Executive, having regard to the merits and dignity thereof, shall think it proper and necessary to place on the said aggregate fund.

SECT. II. AND WHEREAS it appears there will be a considerable surplus of the revenues appropriated to the aggregate fund, beyond what may be necessary to make good the special appropriations charged thereon; BE it enacted, that one-tenthpart of all the arrearages of taxes which have become due prior to the first day of *November*, one thousand seven hundred and eighty-nine, shall, as the several payments may be hereafter made into the Treasury, be set apart for the use of the sinking fund, such proportion to be taken in money, or tobacco at the price the same shall be paid into the treasury, and disposed of by the Executive, in such manner as the Governor, with advice of Council, may think proper for the benefit of the said fund, in any of the public securities of this State, or of the United States. Second, The Executive shall cause any unsettled claim, debt or demand, as aforesaid, to be fairly settled and adjusted; shall take such means as to them shall seem proper for establishing the just value in money of all demands for tobacco, the value whereof hath not been heretofore established, and shall direct the Auditor to issue warrants on the aggregate fund, for any of the purposes aforesaid, for which warrants have not already issued. Third, On all warrants already issued on the aggregate fund, the Treasurer shall, if required, endorse that the same are payable, and will be received, at the treasury, in discharge of any specie tax, which became due before the first day of *November*, one thousand seven hundred and eighty-seven. The Auditor shall insert in all warrants to be issued as aforesaid, that the same are payable,



and will be received at, the treasury in discharge of any specie tax which became due before the first day of November, one thousand seven hundred and eighty-seven. Fourth, And every such warrant endorsed by the Treasurer, as aforesaid, or in which the Auditor shall have inserted, as aforesaid, together with all warrants which now are, or shall in this act be declared receivable for any taxes becoming due on or before the said first day of November, one thousand seven hundred and eighty-seven, shall be received as specie by the several Sheriffs and Collectors within this Commonwealth, for any specie tax, which became due before the said first day of November, one thousand seven hundred and eighty-seven. And the said Sheriffs and Collectors shall account for their several collections of the said taxes, in the same manner, and under the like regulations, as are prescribed in the act passed the first day of December, one thousand seven hundred and eighty-seven, intituled, "*An act declaring tobacco receivable in payment of certain taxes for the year one thousand seven hundred and eighty-seven*;" PROVIDED, that nothing herein contained shall be construed to affect the taxes to be paid to, or collected by, the Clerks of the several Courts. Fifth, And should warrants chargeable upon taxes becoming due on or after the first day of November, one thousand seven hundred and eighty-seven, be received for taxes which, became due before the said first of November, one thousand seven hundred and eighty-seven, the deficiency, which may be occasioned thereby in the aggregate fund, shall be replaced whenever the same shall become necessary, out of the funds upon which the warrants so received were charged. Sixth,

SECT. III. *AND be it further enacted*, That the revenue which became due on the first day of November, one thousand seven hundred and eighty-seven, and all the branches of revenue arising between that day and the first day of November, one thousand seven hundred and eighty-eight, and not consisting of duties on tonnage, or merchandise imported, or on tobacco exported, shall be appropriated as follows, that is to say: The same appropriations shall remain as were made by the aforesaid act, intituled, "*An act to amend the laws of revenue, to provide for the support of civil government, and the gradual redemption of all debts due by this Commonwealth*;" except that in lieu of the payments directed thereby to be made under the several existing requisitions of Congress, the sum of five hundred thousand dollars, accruing to this Commonwealth, upon the settlement of the *Illinois* accounts, shall go towards the satisfaction of such requisitions: And except also, that the sum of six thousand pounds directed to be applied annually to the purchase of arms and ammunition, shall not be so applied. Any surplus, arising from the revenues last mentioned, shall go in aid of the sinking fund. Seventh,

SECT. IV. *AND be it further enacted*, That the revenue which became due on the first day of November, one thousand seven hundred and eighty-eight, and all other branches of revenue arising between that day, and the first day of November, one thousand seven hundred and eighty-nine, and not consisting of tonnage, duties or imposts on tobacco, shall be appropriated as follows: First, All the money arising from the slave tax shall be applied to the payment of the interest due, or hereafter to become due, on the certificates granted to the officers and soldiers of the *Virginia* line, both land and naval, on Continental and State establishment, and in aid of the said slave tax, one half of the money arising from the tax on lands and unimproved lots, shall also be appropriated to the payment of the said interest. Second, The residue of the money arising from the tax on lands and unimproved lots, the surplage of the taxes appropriated for the military debt, together with all the money arising on taxable property, shall constitute a general fund, which shall be charged with the payment of any sum of money coming within the following descriptions, that is to say: First, Warrants or certificates for pensions, becoming due after the thirty-first day of December, one thousand seven hundred and eighty-eight. Second, Warrants issued for the contingent expences of government, as far as ten thousand pounds, after the thirty-first day of December, one thousand seven hundred and eighty-eight. Third, Warrants issued for the interest of the loan-office debt, arising after the thirty-first day of December, one thousand seven hundred and eighty-eight. Fourth, Warrants issued for the interest arising on paper money of this State funded after the thirty-first day of December, one thousand seven hundred and eighty-eight. Fifth, Warrants issued for the services of scouts and rangers. Sixth, Warrants issued after the thirty-first of December, one thousand seven hundred and eighty-eight, to venire-men, witnesses, and apprehenders of horse-stealers; to persons entitled to the valuation of slaves executed; for the use of the *Potomack* and *James* river companies; the post at the *Point of Fork*, and the lunatic hospital. Seventh, warrants issued after the thirty-first of December, one thousand seven hundred and eighty-eight, for the wages and salaries of the officers of civil government, including the General Assembly: Any surplus to go to the sinking fund. The money arising from the tax on law process, recording of wills and deeds, the seal of the Commonwealth, and the Register's Office, after the first day of November, one thousand seven hundred and eighty-eight, shall be appropriated to the payment of the salaries and allowances to the Judges of the Superior Courts: Any surplus to go to the sinking fund. The money arising from the act, intituled, "*An act imposing new taxes*," shall be appropriated to the wages and salaries of the officers of civil government: Any surplus to go to the sinking fund. Any warrants heretofore issued, or which shall hereafter issue, for the salaries of the officers of civil government; for interest on the certificates granted to the officers and soldiers, land and naval, on Continental and State establishment, for their arrears of pay and depreciation; for pensions; for the contingent expences of government; for the interest of the State Loan Office debt, and of the paper money of this State funded; to venire-men and witnesses in criminal prosecutions; to apprehenders of horse-stealers; for slaves executed; for the shares in the *Potomack* and *James* river companies; for the post at the *Point of Fork*, and the lunatic hospital; shall be receivable as specie in discharge of any of the taxes which became due on the first day of November, one thousand seven hundred and eighty-eight, of which shall become due before the first day of November, one thousand seven hundred and eighty-nine; and the several Sheriffs and Collectors, upon the payment thereof into the treasury, shall have credit for the same accordingly. PROVIDED, that nothing herein contained, shall be construed to affect the taxes to be paid to, and collected by, the Clerks of the several Courts.

SECT. V. *BUT* inasmuch as the funds in this act assigned for the payment of the wages and salaries to the officers of civil Government, the post at the *Point of Fork*, the lunatic hospital, the scouts and rangers, and the shares in the *James* river and *Potomack* companies, may not be productive early enough for those purposes respectively, *BE it enacted*, that if the said funds should not be productive as aforesaid, it shall be lawful for the Executive to direct the Treasurer to borrow the same out of any other fund, and to replace the money so borrowed as soon as possible, retaining a sum sufficient for the discharge of the salaries of the Judges, in preference to every other payment charged on the said fund; provided they shall be of opinion that any deficiency will accrue in the funds assigned for that purpose.

SECT. VI. *AND be it further enacted*, That all the revenue arising from the duties arising from tonnage, and merchandise imported, and tobacco exported, shall remain appropriated as heretofore, until the cessation thereof under the authority of this Commonwealth: And should there be any surplus, the same shall go in aid of the sinking fund.

SECT. VII. *AND* that the said fund may receive every possible increase, *BE it further enacted*, that the Executive



Executive shall cause warrants to be issued for the interest accruing on all military certificates, which heretofore have, or hereafter shall, by any means come into the treasury; and that they direct the said warrants to be applied to the purposes of the sinking fund, in such manner as to them shall seem best. Warrants heretofore granted to the foreign creditors, by order of the Executive, and charged upon the impost, shall be admitted in payment of any bonds for duties on goods imported, except the duties on tonnage, and the duty of two per cent. on merchandise imported in vessels belonging to subjects or citizens of any state or power not in commercial treaty with the United States. The tobacco destroyed by fire in *Byrd's Warehouse* shall be paid, agreeable to the report of the Commissioners appointed to ascertain the loss, out of the money arising from the surplus of the inspection of tobacco, in such dividends as the state of the treasury will, in the opinion of the Treasurer, admit.

SECT. VIII. SO much of all and every act and acts, as comes within the purview of this act, shall be, and is, hereby repealed.

C H A P. LXXXI.

## *An ACT Concerning the Erection of the District of KENTUCKY into an INDEPENDENT STATE.*

[Passed the 29th of DECEMBER, 1788.]

SECTION I. **W**HEREAS it is represented to this General Assembly, that it is the desire of the good people in the District of *Kentucky*, that the same should be separated from this Commonwealth whereof it is a part, and be formed into an Independent Member of the *American confederacy*; and it is judged that such a partition of the Commonwealth is rendered expedient, by the remote situation of the more fertile and populous part of the said District, and by the interjacent natural impediments to a convenient and regular communication therewith: *BE it enacted by the General Assembly*, that in the month of *May* next, on the respective court days of the counties within the said District, and at the respective places of holding courts therein, Representatives, to continue in appointment for one year, and to compose a Convention with the powers and for the purposes hereinafter mentioned, shall be elected by the free male inhabitants of each county above the age of twenty-one years, in like manner as Delegates to the General Assembly have been elected within the said District, in the proportions following: In the county of *Jefferson*, shall be elected five Representatives; in the county of *Nelson*, five Representatives; in the county of *Fayette*, five Representatives; in the county of *Bourbon*, five Representatives; in the county of *Mercer*, five Representatives; in the county of *Lincoln*, five Representatives; in the county of *Madison*, five Representatives; in the county of *Woodford*, five Representatives; and in the county of *Mason*, five Representatives: PROVIDED, that no free male inhabitant above the age of twenty-one years shall vote in any other except the county in which he resides. That full opportunity may be given to the good people of exercising their right of suffrage on an occasion so interesting to them, each of the officers holding such elections shall continue the same from day to day, passing over *Sunday*, for five days, including the first day; and shall cause this act to be read on each day immediately preceding the opening of the election, at the door of the courthouse, or other convenient place. Each of the said officers shall deliver to each person duly elected a Representative, a certificate of his election, and shall moreover transmit a general return to the Clerk of the Supreme Court, to be by him laid before the Convention. For every neglect of any of the duties hereby enjoined on such officer, he shall forfeit one hundred pounds, to be recovered by action of debt, by any person suing for the same. The said Convention shall be held at *Danville*, on the twentieth day of *July* next, and shall and may proceed, after choosing a President, and other proper officers, and settling the proper rules of proceeding, to consider and determine whether it be expedient for, and be the will of, the good people of the said District, that the same be erected into an Independent State, on the terms and conditions following: (First) That the boundary between the proposed State and *Virginia* shall remain the same as at present separates the District from the residue of the Commonwealth: (Second) That the proposed State shall take upon itself a just proportion of the public and domestic debt of this Commonwealth: (Third) That all private rights and interests in lands within the said District, derived from the laws of *Virginia* prior to such separation, shall remain valid and secure under the laws of the proposed State, and shall be determined by the laws now existing in this State: (Fourth) That the lands within the proposed State of non-resident proprietors shall not in any case be taxed higher than the lands of residents at any time prior to the admission of the proposed State to a vote by its Delegates in Congress, where such non-residents reside out of the United States, nor at any time either before or after such admission, where such non-residents reside in this Commonwealth, within which this stipulation shall be reciprocal; or where such non-residents reside within any other of the United States, which shall declare the same to be reciprocal within its limits, nor shall a neglect of cultivation or improvement of any land within either the proposed State or this Commonwealth, belonging to non-residents, citizens of the other, subject such non-residents to forfeiture or other penalty within the term of six years after the admission of the said State into the Federal Union: (Fifth) That no grant of land, nor land-warrant to be issued by the proposed State, shall interfere with any warrant heretofore issued from the Land-Office of *Virginia*, which shall be located or laid within the said District, now liable thereto on or before the first day of *September*, one thousand seven hundred and ninety. (Sixth) That the unlocated lands within the said District, which stand appropriated by the laws of this Commonwealth to individuals, or descriptions of individuals, for military or other services, shall be exempt from the disposition of the proposed State, and shall remain subject to be disposed of by the Commonwealth of *Virginia*, according to such appropriation, until the Congress of the United States shall receive the proposed State into the Federal Union, and thereafter the residue of all lands remaining within the limits of the said District shall be subject to the disposition of the proposed State; saving and reserving to the officers and soldiers of the *Virginia* lines, on State and Continental establishment, their representatives and assignees, their rights to lands under the several donations of this Commonwealth, who shall not be restrained or limited as to time in making their respective locations, or completing their surveys by any thing in this act contained, nor by any act of the proposed State, without the future consent of the Legislature of *Virginia*. (Seventh) That the use and navigation of the river *Ohio*, so far as the territory of the proposed State, or the territory which shall remain within the limits of this Commonwealth lies thereon, shall be free and common to the citizens of the United States; PROVIDED HOWEVER, that five members assembled shall be a sufficient number to adjourn from day to day, and to issue writs for supplying vacancies which may happen from deaths, resignations,

or



or refusals to act; a majority of the whole shall be a sufficient number to choose a President, settle the proper rules of proceeding, authorise any number to summon a convention during a recess, and to act in all other instances where a greater number is not expressly required; two thirds of the whole shall be a sufficient number to determine on the expediency of forming the said District into an Independent State on the aforesaid terms and conditions; provided that a majority of the whole number to be elected concur therein.

SECT. II. *AND be it further enacted*, that if the said Convention shall approve of the erection of the said District into an Independent State, on the foregoing terms and conditions, they shall and may proceed to fix a day posterior to the first day of *November*, one thousand seven hundred and ninety, on which the authority of this Commonwealth and of its laws, under the exceptions aforesaid, shall cease and determine forever over the proposed State, and the said articles become a solemn compact mutually binding on the parties, and unalterable by either, without the consent of the other. PROVIDED HOWEVER, that prior to the first day of *September*, one thousand seven hundred and ninety, the Congress of the United States shall assent to the erection of the said District into an Independent State, and shall agree that the proposed State shall immediately after the day to be fixed as aforesaid, posterior to the first day of *September*, one thousand seven hundred and ninety, or at some convenient time future thereto, be admitted into the Federal Union. And to the end that no period of anarchy may happen to the good people of the proposed State, it is to be understood that the said Convention shall have authority to take the necessary provisional measures for the election and meeting of a Convention at some time prior to the day fixed for the determination of the authority of this Commonwealth and of its laws over the said District, and posterior to the first day of *September*, one thousand seven hundred and ninety, aforesaid, with full power and authority to frame a fundamental constitution of government for the proposed State, and to declare what laws shall be in force therein, until the same shall be abrogated or altered by the Legislative authority acting under the constitution so to be framed and established. PROVIDED, that no act of the said Convention, or of the Legislature of the proposed State, shall invalidate or affect the rights, titles, or interests, of any person, or description of persons, herein before secured or guarded.

SECT. III. THIS act shall be transmitted by the Executive to the Representatives of this Commonwealth in Congress, who are hereby instructed to use their endeavours to obtain from Congress a speedy act to the effect above specified.

C H A P. LXXXII.

*An ACT for IMPROVING the NAVIGATION of APPAMATTOX RIVER,  
from Broadway to Pocahuntas bridge.*

[*Passed the 30th of DECEMBER, 1788.*]

SECTION I. **W**HEREAS it hath been represented to the present General Assembly, that the navigation of *Appamattox* river might be greatly improved by deepening the channel from *Pocahuntas* bridge to *Broadway*, so as to admit large vessels to go up to the town of *Petersburg*: *BE it therefore enacted by the General Assembly*, that books shall be opened in the town of *Petersburg*, on the first day of *February* next, under the management of *Robert Bolling, junior, Joseph Jones, Theodorick Bland, Christopher McConico, Thomas Griffin Peachey, James Campbell, Edward Pegram, and William Barkdale*, for receiving subscriptions for the purpose of deepening the channel of the said river. The subscriptions shall be made personally or by power of attorney, and shall be in current money, and paid in gold or silver coin at the current value. The capital to be subscribed for the purpose aforesaid, shall be ten thousand pounds, and shall be divided into two hundred shares of the value of fifty pounds each. Any person may subscribe one or more whole shares, but no subscription shall be received for less than one share.

SECT. II. SO soon as one half of the said capital shall be subscribed, the managers herein before named, shall by advertisement in the *Petersburg Gazette*, call a general meeting of the subscribers at the said town of *Petersburg*. The subscribers who are present at the said meeting shall choose a President, and four Directors, and thereafter the subscribers, their heirs and assigns, shall be incorporated into a Company, by the name of the *Appamattox Company*, and by that name may sue and be sued. The President and Directors shall continue in office for one year, and from thence until the next meeting of the Company; and they, or a majority of them, shall have full power to receive subscriptions until the before mentioned capital is completed: to contract with any persons on behalf of the Company to perform such works as they judge necessary for deepening the channel of the said river from *Pocahuntas* bridge to *Broadway*, and for keeping the same open: to appoint such officers as they deem necessary to be employed in the service of the Company: to call a meeting of the Company, when necessary, to receive from the subscribers the sums respectively subscribed by them, at such times, and in such proportions, as they shall judge proper: and to transact all the other business and concerns of the said Company.

SECT. III. IF any member shall fail to pay to the person authorised by the President and Directors to receive the same, the proportion of the subscription required of him within one month after such requisition is made in the *Petersburg Gazette*, the said President and Directors may recover the same by motion in the General or District Court, in the same manner as the President and Directors of the *James river* and *Potowmack* Companies, can recover the arrears due from any member of the said Companies.

SECT. IV. THERE shall be a meeting of the said *Appamattox Company*, on the first *Monday* in *May*, in every year, at which members, or their proxies, having one hundred and five shares at the least, shall be present, and at any intermediate meeting, members or proxies, having sixty shares, shall be sufficient.

SECT. V. IF a sufficient number of members be not present on the first day, the meeting may be adjourned from day to day, until a sufficient number attend. In counting the votes, each member shall be allowed one vote for every share, as far as ten shares, and one vote for every five shares after ten. The said Company at their annual meeting, or at any other meeting called by the President and Directors, may call upon them for an account of their proceedings and contracts, for the execution of the plan for deepening the said river, and of the money received and disbursed by them, and may allow them a sum for their services: may displace the said President and Directors, or any of them, and appoint others in their stead: may lower the tolls hereinafter allowed them, and may exempt any vessels from the payment thereof: And shall, after leaving in the hands of the President and Directors a sufficient sum for the expences attending the repairs of the said works, and other contingent charges, make an equal dividend of the nett profits arising from the tolls and other profits thereof amongst



amongst themselves according to their respective proportions. In consideration of the expences that will be incurred by the said company in deepening the bed of the said river and keeping the same open, the members of the said company, their heirs and assigns, shall be entitled to the tolls herein after mentioned, for ever, as tenants in common, in proportion to their respective shares, and the same shall be deemed real estate, and be for ever exempt from the payment of any tax or imposition whatsoever.

SECT. VI. And it shall and may be lawful for the said President and Directors, to demand and receive at the place called the *Bakehouse*, on the said river, or at such other places above that as the said President and Directors shall appoint, tolls from vessels drawing upwards of five feet of water, for their passage by or through the said places, according to the following table and rates, to wit: On vessels of five and half feet, three shillings per foot; on vessels of six feet, three shillings and nine pence per foot; on vessels of six and half feet, four shillings and six pence per foot; on vessels of seven feet, five shillings and three pence per foot; on vessels of seven and half feet, six shillings per foot; on vessels of eight feet, six shillings and nine pence per foot; on vessels of eight and half feet, seven shillings and six pence per foot; on vessels of nine feet, nine shillings per foot; on vessels of nine and half feet, eleven shillings and three pence per foot; on vessels of ten feet, fifteen shillings per foot; on vessels over ten feet, and not more than twelve feet, twenty shillings per foot; and on all vessels over twelve feet, one pound five shillings per foot. Which tolls are rated in money, and may be discharged in gold or silver coin at their current value.

SECT. VII. THE tolls herein before allowed to be demanded and received, shall be paid on condition only, that the said *Appamattox* company shall make the said river capable of being navigated in any season, from *Broadway* to *Pocahuntas* bridge, by vessels drawing twelve feet water, and in case the company shall not begin the said work within two years after the company shall be formed, and compleat the same within seven years after it is begun, then the said company shall not be intitled to any benefit or privilege under this act.

SECT. VIII. IF payment of the said tolls shall be refused, when any vessel from which the same are demandable offers to pass by or through the said places herein before named, the collectors may lawfully refuse passage to such vessel; and if any such vessel shall pass without paying the said tolls, the master, skipper, or owner of such vessel, shall forfeit and pay to the said *Appamattox* company, the sum of two pounds for every foot of water which it may draw; to be recovered on motion and ten days notice, in any court of record within this commonwealth. The said river and the channel thereof when deepened as aforesaid, shall forever be considered and taken as a public highway for the passage of all vessels, and transportation of all commodities, upon payment of the tolls aforesaid; and no other tax or toll shall at any time hereafter be imposed for the use of the water of the said river; but the said river shall nevertheless be subject to such regulations, as may be prescribed by the laws of this state or the United States. The shares in the said company shall to all intents and purposes be held and transferred by the proprietors thereof, in the same manner and on the same conditions, as the shares of the proprietors in the *James* river and *Potowmack* companies.

SECT. IX. NOTHING herein contained shall be construed to prevent vessels drawing less than five and an half feet water, from using and navigating the said river *Appamattox*, in the same manner as if this act had never been made: *PROVIDED* always, that nothing herein contained shall be construed to affect the private right of any individual owning a fishery on the said river.

## C H A P. LXXXIII.

### An ACT to punish BRIBERY and EXTORTION.

(Passed at the October session of Assembly, in the year one thousand seven hundred and eighty-six,

and now republished by a resolution of Assembly of the 19th of December 1788, with marginal notes shewing the errors in the former publication.)

SECTION I. **B**E it enacted by the General Assembly, that no Treasurer, Keeper of any Public Seal, Councillor of State, Counsel for the commonwealth, Judge, Clerk of the Peace, Sheriff, Coroner, Escheator, nor any other officer of the commonwealth shall, in time to come, take, in any form, any manner of brokage or reward for doing his office other than is, or shall be, allowed by some act of General Assembly passed after the institution of the commonwealth, that is to say, after the fifteenth day of May in the year of our Lord one thousand seven hundred and eighty-six. And he, that doth, shall pay unto the party grieved, the treble value of that he hath received, shall be amerced and imprisoned at the discretion of a jury, and shall be discharged from his office forever. And he who will sue in the said matter shall have suit as well for the commonwealth as for himself, and the third part of the amercement.

Errata in the former publication.

Between the words 'Judge and 'clerk' in third line are inserted the words 'or Attornies at Law, practising either in the general court, high court of chancery, court of appeals, court of admiralty or inferior courts' which are not in the roll.

The word 'other' in the roll after the words 'nor any' is omitted.



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